REPORT OF THE SASKATCHEWAN INDIAN JUSTICE REVIEW COMMITTEE

Prepared by:

Chairperson, Judge Patricia Linn
and Representatives of the
Federation of Saskatchewan
Indian Nations,
Government of Saskatchewan and
Government of Canada

January, 1992

INDIAN JUSTICE REVIEW COMMITTEE

92-03045/

January 30, 1992

The Honourable Robert W. Mitchell, Q.C.
Minister of Justice
and Attorney General for Saskatchewan

The Honourable Kim Campbell, Q.C.
Minister of Justice
and Attorney General for Canada

The Honourable Doug G. Lewis
Solicitor General of Canada

Mr. Roland Crowe, Chief
Federation of Saskatchewan Indian Nations

Dear Sir/Madam:

We, the members of the Saskatchewan Indian Justice Review Committee appointed to:

- facilitate consultation on the criminal justice system as it relates to Saskatchewan Indian people and communities; and
- consider recommendations relating to the delivery of criminal justice services to Saskatchewan Indian people and communities, and the operation of practical, community-based initiatives intended to enhance such services;

hereby submit our Report.

Yours respectfully,

Judge Patricia Linn,
Chairperson

Sky Blue Morin, Representing
The Federation of Saskatchewan
Indian Nations

Dan Bellegarde, Representing
The Federation of Saskatchewan
Indian Nations

Allan Phibbs, Representing the
Ministry of the Solicitor
General of Canada

Terry Thompson, Representing
Saskatchewan Justice

Betty Ann Pottruff, Representing
Saskatchewan Justice

Susan Mak, Representing
Justice Canada

INDIAN JUSTICE REVIEW COMMITTEE
Acknowledgements

As Chairperson of the Saskatchewan Indian Justice Review Committee, I wish to acknowledge the hard work and commitment of all members of the Committee over the past six months. In particular, I am grateful to both the Metis Justice Review Committee and the Indian Justice Review Committee for their co-operation in working together on this very important process. Without that co-operation my job would have been much more difficult, and it is doubtful that our work could have been completed on schedule.

I want to thank Dan Bellegarde and Sky Blue Morin, the representatives on the Committee from the Federation of Saskatchewan Indian Nations, for their valuable insight and assistance over the past six months. On occasion, Chief Austin Bear, Alphonse Bird and Claudia Agecoutay attended our meetings on behalf of the FSIN. Each made an important contribution to our work. Blaine Favel, who started with the Committee but had to leave at the end of August, also contributed immensely to those first few difficult meetings. Over the summer, Jake Tootoosis, a law student, was researcher for the FSIN and assisted greatly in organizing meetings and contacting the Indian communities.

The provincial government representatives, Terry Thompson and Betty Ann Pottruff, gave invaluable assistance throughout the process, as did Allan Phibbs and Susan Mak, the representatives from the federal government. All members worked on the Committee in addition to their full-time professional responsibilities, and I am sincerely grateful to each of them for their dedication to the process.

I would like to thank David Gullickson, the secretary to both Committees. His organizational and writing skills, as well as his personal commitment to the work of the Committee, has made the production of this report possible.

I want to express my gratitude to the Band Councils, Tribal Councils and FSIN Indian Justice Commission, who met with us or made presentations, and to the Indian people and organizations who came to our meetings to tell us their concerns and give us their suggestions for change.

I want to acknowledge the inmates who met with us at the provincial correctional centres and the Saskatchewan Penitentiary, and provided the Committee with thoughtful and articulate submissions. I also wish to thank Warden Jim O'Sullivan and the Directors of the Provincial Correctional Centres, Annette Neustaedter, Dave Simpson, Peter Guenther and Tony Lund, for their assistance in organizing visits to their facilities.

The Committee received kind hospitality as we travelled throughout the province in the form of lunches and coffee, all of which was much appreciated and enjoyed.

I want to acknowledge and thank Mr. Justice R.A. Cawsey, Chairman of the Task Force on the Criminal Justice System and its Impact on the Indian and Metis People of Alberta, for his very helpful guidance and kind support.

Finally, I wish to thank Chief Judge Carey and my colleagues on the Provincial Court. They have continually given me their support and filled in for me when I have needed to be absent from my judicial duties.

TABLE OF CONTENTS

		Page
ACKNOWLEDGEMENTS		i
1.	INTRODUCTION	1
2.	PROCESS	4
3.	ABORIGINAL PEOPLES IN SASKATCHEWAN: SOCIO-DEMOGRAPHIC INFORMATION	
	(a) Introduction	5
	(b) Saskatchewan Indians	
	(i) Demographic Trends	5
	(ii) Social and Economic Indicators	6
	(c) Saskatchewan Metis People	8
4.	SASKATCHEWAN CRIMINAL JUSTICE INFORMATION	10
5.	YOUTH JUSTICE	13
6.	POLICING	
	(a) Introduction	19
	(b) Urban Policing	20
	(c) Cross cultural and Race Relations Sensitivity Training	22
	(d) Recruitment, Supervision and Retention	23
	(e) RCMP	
	(i) Aboriginal Recruitment	25
	(ii) Community-Based Policing	26
	(iii) Indian Policing Policy	28
	(f) Communications and Accountability	
	(i) Communications	29
	(ii) Complaints Against Police	30
7.	LEGAL REPRESENTATION	
	(a) Introduction	33
	(b) Aboriginal Courtworkers	33
	(c) Legal Aid	34
8.	SENTENCING ALTERNATIVES	38

		Page
9.	**COURT SERVICES**	
(a)	Access to Justice	43
(b)	Indian Justices of the Peace	45
(c)	Court Services Enhancements	47
10.	**CORRECTIONS**	
(a)	Introduction	51
(b)	Cross Cultural and Race Relations Sensitivity Training	52
(c)	Female Offender Issues	53
(d)	Employment Equity	55
(e)	Programming	56
(f)	Treaty Rights Recognition	60
(g)	Recognition of Elders	61
(h)	Access to Parole	62
11.	**OVERARCHING CONCERNS**	
(a)	Introduction	64
(b)	Racism	64
(c)	Cross Cultural and Race Relations Sensitivity Training	66
(d)	Family Violence	67
(e)	Implementation Mechanisms	69
12.	**SUMMARY OF RECOMMENDATIONS**	70
	ENDNOTES	79

LIST OF APPENDICIES

Appendix 1 - Joint Press Release

Appendix 2 - Terms of Reference

Appendix 3 - Status Report on Reflecting Indian Concerns

Appendix 4 - List of Submissions Received and Individuals/Groups Consulted

Appendix 5 - Federation of Saskatchewan Indian Nations, 'A Strategic Plan for an Indian Justice System'

Appendix 6 - *The Police Act, 1990* public complaints process

Appendix 7 - RCMP Public Complaints Commission process

1. INTRODUCTION

> **Through the teachings of an Elder [offenders] regain their identity or find it for the first time. They come to believe in themselves as a people. Instead of being ashamed, they find pride in their heritage. They come to feel a purpose in life instead of just existing. All that is good in life is passed on down from the grandfathers, through the Elders, to us. The result of this is the healing process has begun.**
>
> **...The two greatest gifts the Creator has entrusted in our people are our children and our Elders. We must find a way to bring them together again, as one.**
>
> Brian Campbell, Saskatoon Provincial Correctional Centre, in his submission to the committee entitled "The Forgotten Dream; Our Children, Our Future."

The Saskatchewan Indian Justice Review Committee was established on June 5th, 1991, with the following objective:

> To make recommendations relating to the delivery of criminal justice services to Saskatchewan Indian people and communities and in particular, relating to the development and operation of practical, community-based initiatives intended to enhance such services.

Although there have been numerous Canadian studies completed, and many recommendations made in recent years, implementation of recommendations is an often difficult process and meaningful change may seem slow in coming. Being aware of this, the Indian Justice Review Committee was given a short time frame to focus on practical changes and initiatives that could be implemented almost immediately, or within a very reasonable period of time.

Our review process was very different from the inquiries recently completed in Manitoba and Alberta, which took a longer term approach to determining directions for change. Indeed, so different is our process that this report deals with Process under a separate heading.

On occasion, the Committee has been criticized by those who feel the time period from June 7th to December 7th, 1991, was inadequate to properly explore the workings of the courts, corrections, police, and other parts of the justice system as it impacts on Indian people and communities. The Committee understands these concerns and acknowledges that people and organizations sometimes had difficulty submitting briefs in time for our consideration. We also acknowledge that we have only heard from a portion of the Saskatchewan public on these issues. However, we feel that a tremendous amount of work has been completed over the past six months, resulting in the practical recommendations contained in this report. In particular, we feel that this report constitutes a valuable beginning to focus discussions on changes to ensure the respect and confidence of Indian people in Saskatchewan in the justice system.

Unlike the Metis Justice Review Committee which was established at the same time, this Committee is not completely a first step for Indian people in Saskatchewan. In 1985, the Federation of Saskatchewan Indian Nations participated in a joint study with the Government of Canada and the Government of Saskatchewan entitled *Reflecting Indian Concerns and Values in the Justice System*.[1] This study was conducted by a steering committee together with four working groups. It made recommendations in four areas designated for review: law enforcement, corrections, justices of the peace/peacemakers, and customary law.

The Indian Justice Review Committee had the benefit of the previous study and discussed the implementation of many of its recommendations in our initial meetings. Therefore, to some extent this Committee was able to build upon the framework established in the 1985 study. One of the Committee's first tasks was to review the degree to which those recommendations had been implemented (see Appendix 3).

As well, it should be noted that the Indian Justice Commission of the FSIN is presently involved in strategic planning — for Indian controlled policing services, tribal courts, alternative corrections on-reserve and Indian law-making — which goes beyond the work of this committee. A considerable amount of long-range planning has been undertaken by the FSIN in recent months, and the work of this Committee forms an important part of that plan.

The goal of the Indian people in Saskatchewan (more properly called First Nations people) is self-determination. The following is an excerpt from the Federation of Saskatchewan Indian Nations' position on self-government taken from our Interim Report:

> **The FSIN states that the right to self-government is maintained, even if it has not been exercised for 115 years. It is time for the re-development of First Nation self-government including the administration of justice. ...Current parallel constitutional processes for aboriginal people and the Royal Commission on Aboriginal Affairs will consider ways and means of entrenching First Nation self-government, including First Nation control of justice systems in our communities. The work that we do now is essential in order to give practical legal effect to the constitutional entrenchment of First Nation's self-government.**[2]

Although this Committee does not have a mandate to consider or make recommendations in relation to Indian self-government it recognizes the FSIN's position.

The Committee also recognizes the stated positions of the federal and provincial governments on this issue. One of the pillars of the federal government's justice policy calls for changing the relationship between aboriginal people and government, primarily by enlarging the capacity of aboriginal people for self-government. The intent is to "find practical ways to ensure that aboriginal communities can exercise greater control over the administration of justice," and "to enter into discussion with the provincial governments and aboriginal people on a new approach to aboriginal justice." Therefore, while the federal government does not "envisage an entirely separate system of justice for aboriginal peoples, community justice systems connected with self-government initiatives are both possible and desirable".[3]

The provincial government has also suggested it is open to considering significant changes to the way the criminal justice system works for Indian and Metis people. In this regard, although consideration of a separate system of justice is not excluded, the Saskatchewan government has indicated that it is particularly interested in ideas that will improve the relationship between Indian and Metis people and the criminal justice system in Saskatchewan, and make the present system more sensitive to their cultural differences and the problems they encounter.

Following the Interim Report, the Metis and Indian Justice Review Committees jointly held 5 public hearings in Cumberland House, Buffalo Narrows, North Battleford, Saskatoon and Yorkton. These meetings provided confirmation of many of the concerns we had heard previously. They also provided new information and gave us a deeper understanding of the problems faced by Indian people when dealing with the criminal justice system.

Our visits to the various communities in Saskatchewan also confirmed two important points that should be remembered in reading our recommendations:

1) that meaningful changes can only come about when the Indian community is actively involved in deciding what changes are to be made, how they are to happen, and shares responsibility for the changes; and

2) that because each Indian community is at a different stage of development, they are also at different stages of readiness for change. A project or initiative that may be right for one community may not be right for another. The unique and special circumstances of each community must be recognized.

Finally, the Committee is very aware that without major changes to improve the social and economic conditions which characterize the lives of many Indian people in this province, changes to the criminal justice system will have only a limited effect. In his convocation address at Osgoode Hall Law School on June 16th, 1989, Mr. Justice Walter S. Tarnopolsky stated that any comparison between Canada's aboriginal peoples and the rest of the population was "tragic. ...No other domestic issue is more noted to our disadvantage internationally than the conditions of Canada's native peoples."[4] It will require the commitment of all Canadians to ensure that these words no longer ring true.

Our Committee is optimistic that Saskatchewan, and indeed all of Canada, wants to begin to make real changes with, and for, aboriginal people. Over the past few months we heard of many positive initiatives already happening in our province. We have every expectation that the recommendations from this report will be a meaningful step in this ongoing process as well as the future plans of the Indian people of Saskatchewan.

2. THE PROCESS

The route taken by the Saskatchewan Indian Justice Review Committee has been very different from that taken in other provinces, in particular the recent Manitoba and Alberta studies. Our over-riding concern was to make timely recommendations which are action-oriented.

To this end we held consultations with individuals, organizations and communities during our mandate (see Appendix 4), and held five public hearings (Cumberland House, North Battleford, Yorkton, Buffalo Narrows and Saskatoon) following the release of our Interim Report in late October. Our time frame, being six months, and our focus, on community initiatives, were intended to produce proposals for immediate action within our stated objectives. Unlike Manitoba and Alberta, the members of the Committee, including the Chairperson, did not take leave from their other professional responsibilities, and have undertaken the Committee's work on top of their normal workloads.

Having said that, the Committee wishes to acknowledge the excellent and far-reaching reports done by both the Aboriginal Justice Inquiry of Manitoba and the Task Force on the Criminal Justice System and its Impact on the Indian and Metis people of Alberta. The Alberta process proceeded over a one-year period and resulted in close to 300 recommendations. The Task Force was asked to identify any problems and propose solutions to ensure that Indian and Metis people receive fair, just and equitable treatment at all stages of the criminal justice process in Alberta. Their detailed recommendations clearly establish that the Task Force responded positively to the presentations of the Indian and Metis people of Alberta.

The Aboriginal Justice Inquiry in Manitoba, like an earlier inquiry in Nova Scotia, was largely based on re-opening particular cases. In Manitoba the catalyst was the killing of John Joseph Harper and the re-opening of the investigation of the murder of Helen Betty Osborne. The Manitoba Inquiry continued over a three-year period. It is probably the most in-depth public inquiry into aboriginal justice issues undertaken to date, concluding with over 140 recommendations. In Nova Scotia, the process began with the inquiry into the wrongful conviction of Donald Marshall Jr. and ended with 82 recommendations covering a wide range of justice issues.

The process undertaken in Saskatchewan cannot be compared to the inquiries and studies just referred to. Our purpose was not to investigate past wrongs, although this is not to say that mistakes have not been made in this province. Nor was our purpose to undertake a lengthy review of a broad range of criminal justice issues. Rather, our purpose was to examine ways to make changes within our present criminal justice system, and to encourage expansion of the positive changes already underway, resulting in a system of justice that is more fair and equitable to Indian people.

We hope that as our recommendations are implemented in the months ahead any criticism of our process will give way to encouragement and support in pursuit of our common goals. If there is one lesson to be learned from the many reports written over the past decade, it is that Canada's aboriginal and non-aboriginal people must talk with each other; listen to each other, and begin to work together in a spirit of mutual respect for the rights of one another.

3. ABORIGINAL PEOPLES IN SASKATCHEWAN SOCIO-DEMOGRAPHIC INFORMATION

(a) Introduction

The Constitution of Canada identifies three distinct groups of aboriginal people — Indian, Metis and Inuit.

There are a number of distinct tribal groupings or First Nations of aboriginal people in Saskatchewan. These include: the Dene (or Chipewyan) in the northwest and far north; the Cree (Woodlands, Swampy and Plains) in the north, parklands and central plains of the province; the Sioux (Assiniboine and Dakota) in the western and southern plains; the Salteaux (or Ojibwa) in the east-central parklands; and the Metis throughout the province.[5]

According to the 1986 Census, 77,640 persons, 7.8% of the Saskatchewan population of 996,715, reported having at least one aboriginal origin. Just over 43,000 persons gave a single North American Indian origin, about 12,000 a single Metis origin, and 40 a single Inuit origin. As well, 22,000 or 28% of all persons reporting aboriginal origins indicated that they had both aboriginal and non-aboriginal origins.[6]

The federal department of Indian and Northern Affairs Canada (INAC) reports that at December 31, 1990, 75,441 persons were registered as Indians under the *Indian Act* in Saskatchewan, representing 7% of the provincial population and 15% of the Canadian Indian population.[7]

The Metis are those of mixed North American Indian and European descent. The actual number of Metis in the province is a matter of some speculation. In the aftermath of Bill C-31, Indian status was restored to about 10,500 Saskatchewan individuals (and their children) who had lost their status as a result of discriminatory clauses in the *Indian Act*.[8] The 1986 Census reports about 26,000 Saskatchewan respondents with a Metis origin as a single or part of a multiple response. However, it has been suggested that many people of Metis origin did not report themselves as such.[9] The Metis Society of Saskatchewan, for one, estimates the Metis population of the province to be upwards of 70,000.

Saskatchewan aboriginal people are distinguished not only by their constitutional status, but by their socio-demographic attributes. The situation of Saskatchewan Indian and Metis peoples is discussed separately below.

(b) Saskatchewan Indians

(i) Demographic Trends

There were about 75,000 registered Indians in Saskatchewan as of the end of 1990. Approximately 40,000 reside on-reserve (54%) and about 35,000 (46%) reside off-reserve.[10] The cities of Regina, Saskatoon and Prince Albert have significant Indian populations, as do the centres of North Battleford, Yorkton and Moose Jaw.[11]

At the end of 1990, there were 70 Saskatchewan Indian bands ranging in size from under 100 to 4,700 members. Although the average on-reserve population was about 560, just 7 bands had an on-reserve population exceeding 1,000 while 39 had a population of less than 500.[13]

The comparatively young Indian population is growing much more rapidly than the general population, and has been doing so for more than three decades. Between 1980 and 1990, the Saskatchewan Indian population grew from 48,000 to 75,000, an increase of 57%, while the population of the province as a whole increased by less than 5%.[13] According to INAC projections, the Indian population of Saskatchewan is expected to exceed 105,000 by the year 2001, and 133,000 by the year 2011.[14] As a result, Indians are expected to comprise 12% of the Saskatchewan population by 2011.[15]

One consequence of such a pattern of population growth is that the Saskatchewan Indian population is, on average, much younger than the Saskatchewan population as a whole. In 1987, fully 54% of Saskatchewan Indians were aged 19 and under, compared with 32% of all Saskatchewan residents. In addition, just over 3% of Saskatchewan Indians were aged 55 and over, compared with 22% of the Saskatchewan population as a whole.[16]

(ii) Social and Economic Indicators

Any discussion of Indian and Metis people and the criminal justice system must consider the marginalized social position that aboriginal people occupy in Saskatchewan society. In the view of many observers, this marginalization is the legacy of assimilationist policies which, however well or badly intentioned, have resulted in relations of dependency, a loss of control over virtually all aspects of life, and widespread social disorganization.[17] Put another way, such policies have contributed to pervasive poverty, unemployment and dependence on social assistance; low levels of formal education; increasing rates of family breakdown; high levels of substance abuse, violence, illness and disease; and last, but hardly least, high levels of conflict with the law.

Information from a variety of sources indicates that:

- In 1981, the most recent year for which information is available, just over one-quarter of Saskatchewan on-reserve housing was in need of major repair, over two-thirds lacked central heating, and over three-fifths lacked a bathroom. In contrast, just 7% of Saskatchewan non-reserve housing was in need of major repair, 8% lacked central heating, and 6% lacked a bathroom.[18]

- Dwellings were significantly more crowded on-reserve than off. On average, there were 4.8 persons per dwelling on-reserve in 1986 as compared with 2.8 persons per dwelling in the general Saskatchewan population.[19]

- Forty-three percent of the Indian population 15 years and over (51% of those on-reserve, 29% of those off) in 1986 had less than a grade nine education and 1-2% had completed university. In contrast, 19% of all Saskatchewan residents had less than a grade 9 education and 7% had a university degree. However, on a more positive note, 7% of Saskatchewan Indians 15 and over reported some university studies as compared with 11% of all Saskatchewan residents 15 and over, and 6% had completed other non-university postsecondary education (with certificate) as compared with 14% of the general population.[20]

- One in three Saskatchewan Indians reported using only an aboriginal language in the home in 1986. A further 52% used English only while the remaining 16% used multiple languages.[21]

- The unemployment rate among Saskatchewan Indians 15 years of age and older in 1986 was 35%, more than 4 times the provincial rate of 8%. Further, 6 in 10 Saskatchewan Indians aged 15 and over were not in the labour force as compared to one in three members of the general population. Just 26% of the Indian population 15 and over was employed as compared to 61% of the adult population of the province as a whole.[22]

- The employment picture for Indian women is especially bleak. Only 29% reported labour force participation in 1986, compared with a general female participation rate of 55%.[23] Indian women are also more likely to face socio-economic difficulties as a consequence of being single parents. Twenty-seven percent of all reserve families were headed by lone parents, compared with about 1 in 10 of all Saskatchewan families. Three-quarters of Saskatchewan lone-parent families were headed by women in 1986.[24]

- In 1988-89, roughly 3 in 4 registered Indians resident on-reserve (a monthly average of 29,700 persons) received social assistance benefits each month, compared with about 8% of the population of the province as a whole.[25]

- In 1985, the average individual (per capita) income of Saskatchewan Indians 15 years of age and older was $6,732, less than half the provincial average of $14,845.[26]

- The life expectancy at birth for Indians, despite significant gains in recent years, remains about 10 years less than that of the Saskatchewan population as a whole.[27] The infant mortality rate, although declining in recent years, remains almost double the provincial rate (15.4 versus 8.8 deaths per 1,000 live births).[28]

- While suicide among Indians declined steadily between 1984 and 1989, the 1989 suicide rate among Saskatchewan Indians remained almost triple that of the Saskatchewan population as a whole–34.7 versus 12.3 per 100,000 population.[29] For 1985 and 1986, the Saskatchewan suicide rate on-reserve for youth aged 15 to 19 was almost 5 times the provincial youth rate (70.7 versus 15.0 per 100,000 population),[30] prompting the Saskatchewan Alcohol and Drug Abuse Commission to suggest that "if youth suicide rates represent cause for concern, ...Indian suicide rates represent a national crisis."[31]

- While aboriginal people account for less than 3% of the Canadian population, in 1988 they represented 18% of homicide victims and 22% of homicide suspects. Put another way, about 1 in 6 people killed in a homicide incident and 1 in 5 people suspected of committing a homicide in 1988 were aboriginal.[83]

- It is estimated that between 35 and 40% of the Saskatchewan adult Indian population chronically abuses alcohol as compared to 6% of the Saskatchewan adult population as a whole.[33] In 1990/91, aboriginal people made up 37% of admissions to treatment (6,005 of 16,243) to the Saskatchewan Alcohol and Drug Abuse Commission and its funded agencies.[84]

- The incidence and prevalence of tuberculosis, a disease long associated with squalid living conditions and poverty, is 13 to 25 times higher among Indians than Non-Indians.[85] Likewise, diabetes is between 2 and 10 times more prevalent than in the general population and sexually transmitted diseases are 8 to 10 times more prevalent.[86]

The aforementioned statistics paint a bleak picture. However, the First Nations communities and organizations are confident that they can remedy the situation. Recent announcements in the areas of institutional development over Indian-controlled education programming (First Nations primary and secondary schools, the Saskatchewan Indian Federated College, and the Saskatchewan Indian Institute of Technologies), economic development programming (the Saskatchewan Indian Agricultural Program, the Saskatchewan Indian Equity Foundation) and social/health programming indicate that conditions will improve when First Nations take control of their political and developmental organizations.

The First Nations, the Tribal Councils and the developmental institutions are becoming very sophisticated in their management techniques and delivery structure. It is in this environment of positive infrastructural development that the recommendations contained in this report will be received.

Above all, the First Nations communities must take the responsibility to take control of their justice initiatives, where feasible, and to work with other jurisdictions, where necessary.

(c) Saskatchewan Metis People

As is the case in Manitoba, census data aside, detailed information on the Metis population of Saskatchewan is lacking. However, such information as is available would suggest that there are more similarities than differences between the living conditions and socio-demographic attributes of Saskatchewan Metis and Indian peoples, especially in the sparsely populated and deeply impoverished north of the province.[87]

The 1986 Census reports about 26,000 respondents of Metis ancestry in Saskatchewan; a figure thought to be low by many. This population is concentrated in the North, 42%, and in the urban centres of Regina, Saskatoon and Prince Albert, home for 37% of the Metis population. The remaining 23% of Saskatchewan Metis are resident in the parkland areas of the province, including the Yorkton district and the northwest from North Battleford west to Lloydminster and north to Meadow Lake.[88]

Similar to the Indian population, the Metis community is comparatively young: 40% were less than 15 years of age and 8% were aged 55 and over in 1986. In contrast, 25% of the population of the province as a whole were less than 15 and 22% were aged 55 and over.[39]

Available Census data suggest that:

- Thirty-two percent of the Saskatchewan Metis population 15 years and over in 1986 had less than grade nine education and 1% to 2% had completed university. In contrast, 19% of all Saskatchewan residents had less than a grade nine education and 7% had a university degree. However, on a more positive note, 6% of Saskatchewan Metis reported some university studies and 10% had completed other non-university postsecondary education (with certificate). In contrast, 11% of all Saskatchewan residents 15 and over reported some university studies and 14% other non-university postsecondary education (with certificate).[40]

- Fourteen percent of Metis use only an aboriginal language in the home, 8% use multiple languages, 3% use French only and the remaining 75% use English only.[41]

- The unemployment rate among Saskatchewan Metis 15 years of age and older in 1986 was 26%, more than triple the Saskatchewan rate of 8%. Further, 4 in 10 Metis aged 15 and over were not in the labour force as compared to one in three members of the general Saskatchewan population. Overall, 44% of the Metis population 15 and over was employed as compared to 61% of the Saskatchewan population as a whole.[42]

- The unemployment picture for Metis women is somewhat better than for Indian women. Overall, about half of Metis women reported labour force activity in 1986 as compared to 55% of all women aged 15 and over. However, the unemployment rate, at 25%, was about triple that for all women.[43]

- In 1985, the average individual (per capita) income of Saskatchewan Metis 15 years of age and older was $8,915, 60% of the provincial average of $14,485.[44]

It is important to keep in mind that the Metis of Saskatchewan have made important strides in developing their own infrastructure and services in recent years, most notably in the areas of postsecondary education (the Gabriel Dumont Institute), economic development (the Saskatchewan Native Economic Development Corporation), housing (the Provincial Metis Housing Corporation) and substance abuse treatment programming (the Saskatchewan Native Alcohol Council Corporation). Such developments, coupled with the growth of Metis among the ranks of many skilled trades and professions, provide a sound foundation for the self-government aspirations of the Metis.

4. SASKATCHEWAN CRIMINAL JUSTICE INFORMATION

Saskatchewan has experienced an overall increase in reported crime of 5.5% in the last 10 years. This refers to *Criminal Code*, drug offence, federal and provincial statute violations and municipal by-laws, but does not include traffic or impaired driving data. However, the trend over the last three years of reported data (1988 to 1990) shows a gradual decrease. This is a positive development, as the national rate of reported crime increased by 4.7% in 1990.[45]

The qualitative aspect of crime committed/reported in Saskatchewan has changed over the years. For example, in 1979, 53% of all the offences belonged to the *Criminal Code* category, while in 1990 these offences accounted for 74% of reported crime. Meanwhile, the proportion of provincial statute offences declined from 42% to 20%. This would seem to indicate that a more serious type of crime is now being reported.

Consistent with the national trend, violent offence reports increased by 68% over the last ten years. However, in the most current crime data for 1990, violent offences still represented just 7% of all offences reported in Saskatchewan. Property crimes represent the largest category of criminal activity, 43% in 1990. They have increased 37% over the decade. On a positive note, the number of impaired driving and drug offences reported has decreased.[46]

The profile of offenders has also changed over the last ten years, with the number and proportion of females and young offenders charged with an offence increasing, and the number of adult males charged declining. Some of the shift in recording of adult and youth crimes may be skewed by the *Young Offenders Act* which in 1985 changed the "adult" offender age from 16 to 18. Nevertheless, the statistics would appear to show a doubling in the number of young offenders dealt with by the justice system over the past decade.[47]

The number of sentenced admissions to adult jail has increased 28% over the past decade.[48] But, as with the decrease in overall reported crime for the last three reported years, admissions have declined 7% from 1988 to 1990. However, the average daily count of sentenced admissions has increased by about 10% over this period, perhaps showing an increase in sentence length. As well, sentenced admissions per 10,000 adults charged rose by 9%, suggesting an increased use of incarceration.[49]

Adult sentenced admissions to provincial correctional centres in 1990-91 were for the following major offences: 17% for against person violent offences; 4% for drug offences, 23% for property offences, 25% for impaired driving and dangerous driving offences, 15% for other *Criminal Code*/Federal offences such as failure to appear, bail violations and disturbing the peace, and 17% for provincial/municipal statute offences. A substantial minority of admissions, 38%, were for fine default.[50]

Overall, aboriginal — status Indian, Inuit, non-status Indian and Metis – admissions accounted for 68% of all sentenced admissions to provincial correctional centres in 1990-91 (4,987 out of 7,377). By gender, 65% (4,271 of 6,538) of males admitted were aboriginal, as were 85% (716 of 839) of females. Aboriginal men are more apt to be incarcerated for an against person offence (e.g., assault, sexual assault) than are aboriginal women and non-aboriginal persons. As well, aboriginal persons were the majority of those incarcerated for other *Criminal Code* and provincial/municipal offences.[51]

Figures for 1990-91 show that of those incarcerated women applying for conditional release from provincial facilities, 84% were aboriginal, as were 82% of those accepted. For aboriginal men, the rate of application and acceptance is lower — 66% of applicants and 65% of those accepted. The rates of acceptance are very similar for non-aboriginal applicants.[52]

Figures for 1990-91 show that of women applying for release to a community training residence, 80% were aboriginal, as were 80% of those accepted. For aboriginal men, the rates are lower, with 51% of all applicants and 52% of those accepted. These rates of acceptance are very similar for non-aboriginal applicants.[53]

As regards aboriginal participation in other provincial correctional programs, figures for 1990-91 show that 58% of the supervised probation caseload was aboriginal (1,671 of 2,882), 47% of those for whom pre-sentence reports were prepared were aboriginal (587 of 1,247), 41% of the restitution caseload was aboriginal (359 of 881), 39% of the community service order participants were aboriginal (235 of 606), and 63% of the fine option program participants were aboriginal (7,641 of 12,143).[54]

As of March 1991, there were 746 federal offenders in institutions in Saskatchewan, 44% of whom were aboriginal. In addition, as of July, 1991, there were 343 federal offenders under community supervision in Saskatchewan, 45% of whom were aboriginal.[55]

In the youth area, a snapshot of case involvement as of June, 1991, shows aboriginal youth constituted 45% of all young offenders receiving some form of disposition under the *Young Offenders Act*. They also represented 72% of those in custody programs (330 total), 42% those in community programs (probation, community service and restitution) (1,599 total), and 29% of those dealt with under alternative measures (236 total).[56]

The correctional data indicate that aboriginal people represent a larger proportion of the inmate and corrections populations than their proportion of the general population. However, it must be remembered that this indicates over-representation at the final stage of the criminal justice process, and does not shed light on the causes of this disparity, i.e., whether there are differences in offending patterns, charging or sentencing practices, etc.

Information on the ethnicity of those in contact with the justice system at the police and court levels is generally inadequate. Recent special studies by the Canadian Centre for Justice Statistics have attempted to obtain better information on aboriginal offending patterns. For example, in April 1991, the Centre released a study entitled *Crime in Aboriginal Communities, Saskatchewan 1989*. It found that the proportion of offences reported on-reserve (4.2%) was higher than the proportion of the population living on-reserve (2.7%), and that violent and traffic crime rates were higher than in other rural or urban areas. Specifically, 15% of

all violent offences for 1989 were reported on-reserve and violent offences represented 21% of all reserve offences. As well, 5% of *Criminal Code* traffic offences and 6% of all impaired driving offences reported were on-reserve. However, property crime was more proportionately balanced, with only 3.1% of all property crime reported in 1989 occurring on-reserve.[57]

The study found that the proportion of people within the young offender age category (12 to 17) is almost twice as high on-reserve as off. Conversely, persons aged 18 and over comprise a much higher proportion of the off-reserve population. These differences, however, are less pronounced in La Ronge and the rest of the North.

Given that the age group at risk of coming into conflict with the law is generally considered to be those 16 to 25 and that aboriginal people represent an increasing proportion of Saskatchewan youth, the potential exists for increased contact between aboriginal youth and the criminal justice system should current trends continue.

WE RECOMMEND THAT:

0.1 in consultation with Indian and Metis organizations, federal and provincial government departments design and implement data collection systems to provide detailed information to compare aboriginal and non-aboriginal contact with, and treatment by, the criminal justice system, especially with respect to family violence.

5. YOUTH JUSTICE

Youth justice was determined to be an important priority at the first joint meeting of the Indian and Metis Justice Review Committees. This perception was confirmed in subsequent presentations by judges, lawyers, inmates, inmate and ex-inmate representatives, public agencies and members of the wider public who sent in briefs or made oral submissions to the Committee. For example, in their written submission, the Saskatchewan Coalition Against Racism stated that:

> **Perhaps the saddest fact, and the best starting point for a review of Aboriginal justice, is the reality that Aboriginal youth have a better chance of going to jail than they have of completing high school. The fact is that Aboriginal youth are routinely streamed into lives of unemployment, poverty, incarceration, and suicide. ... All too often crime is used as a mechanism of escape from unbearable living conditions on reserves or in foster homes.**

The disproportionate number of aboriginal youth being dealt with under the *Young Offenders Act* was noted earlier. Many people indicated a concern that aboriginal youth suffer from problems of low self-esteem, hopelessness, anger and despair, and that there is a need to connect aboriginal youth to their Elders and cultural heritage to promote aboriginal role models, and to treat the problems facing aboriginal youth in a holistic manner.

As the John Howard Society of Saskatchewan noted in their written presentation to the Committee:

> **An important consideration for the review panel might be one which allows youth particularly, to get spiritual counselling and cultural counselling. Just because a person is Native does not mean that they have in depth knowledge of their own culture, particularly if they have been raised in the urban setting or in a dysfunctional family. This knowledge is imperative to holistic development of the Native person. The teachings of the Native cultures, if followed, require discipline and offer structure and hope, missing components in the lives of many of the people in court today.**

We also heard that there are some positive things happening to assist aboriginal youth. For example, the Circle Project in Regina runs a number of programs including a Safe Haven Program for latchkey kids; cultural camps and activities for children and youth during the summer; counselling services for young offenders; and traditional dancing, singing and drumming classes.

The Young Offenders Services Division of the Department of Social Services advised us that they try to involve an aboriginal perspective in their community and institutional programs. As well as ensuring an aboriginal perspective, the employment of aboriginal people in program delivery provides role models for aboriginal youth. We note that aboriginal people are involved in delivering the alternative measures program through Friendship Centres in La Ronge, Prince Albert, Fort Qu'Appelle and other areas. Also, aboriginal service providers represent about 45% to 50% of those contracted throughout the province to provide specialized services to youth on probation.

The Committee heard that youth justice committees are working well in other jurisdictions such as Alberta, Manitoba and the Northwest Territories. We were also advised that youth justice committees have been operating informally in Saskatchewan at Sandy Bay and Cumberland House. We note the concern of local communities about youth crime and believe that the effectiveness and relevance of the criminal justice system for these communities and for aboriginal youth can be enhanced by promoting community involvement.

Youth justice committees involving Elders and other respected community members chosen by the community can work to better inform the criminal justice system about, and link it to, communities. This can assist in promoting reconciliation between the offender, the community and the victim. The use of such committees will ensure that youth are dealt with in culturally appropriate ways and address concerns about alienation between the community and the justice system by empowering the community.

Such committees could operate as in Fort Chipewyan to make recommendations on sentencing, participate in preparation of pre-sentence reports, and could lead to Elders or other representatives sitting with the judge and reading the disposition. This approach could be an important first step toward developing a court where Elders sit on the same basis as the provincial court judge, as was proposed to the Committee by Judge Linton Smith of the Provincial Youth Court. These committees could also be expanded, as in Fort Chipewyan, to deal with adult offenders.

Implementation of the recommendation below is facilitated by section 69 of the *Young Offenders Act*, which provides an existing mechanism for the creation of such committees by the province.

WE RECOMMEND THAT:

1.1 subject to community support, youth justice committees be established under section 69 of the *Young Offenders Act* to assist in the disposition of cases involving aboriginal young offenders. The membership and responsibilities of such committees would be developed through consultations between federal and provincial government departments and Indian and Metis organizations.

The Committee heard concern that there are insufficient support services for aboriginal youth. We also heard that referrals of aboriginal youth to alternative measures are not consistent with their overall representation in the youth justice system.

The John Howard Society noted that in the young offender alternative measures programs they operated in Regina and Saskatoon, only 34% and 18% of referrals respectively were aboriginal. Yet this type of programming may be a more relevant way to deal with aboriginal youth as it involves a more traditional, holistic approach to dispute resolution.

The John Howard Society suggested that aboriginal youth could be exposed to aboriginal cultural training as part of their community service hours. As well, they noted that more alternative programs such as StopLift and culturally relevant crime prevention programming should be developed. Other presenters suggested youth wilderness camps, teaching urban survival skills/lifeskills for non-urban aboriginal youth, and youth drop-in centres.

The Committee received two detailed proposals for the development of youth treatment programs. The Buffalo Narrows Friendship Centre proposes to develop a Northern Youth Assessment and Treatment Centre to deal with the threat they perceive to northern youth from drugs and alcohol.

Another proposal was brought forward by Angus McLean of the James Smith Cree Nation for the development of a holistic "camp style" treatment centre for youth to deal with cultural, substance abuse, family or community reintegration, health, counselling and career planning issues.

Angus McLean likened the criminal justice system to a revolving door through which aboriginal youth were arrested, placed in custody, released and re-arrested. He suggested that his proposal presented a positive option: not only for those youth involved with the courts; but for those at risk of coming into conflict with the law due to unmet treatment, healing and education needs.

The relevance of a holistic approach to dealing with offenders was particularly stressed as being important for aboriginal youth. This approach seeks to deal with the total person within the context of their community. Whether called the Sacred Circle, the Circle of Life, the Hoop of Life or the Medicine Wheel, this concept represents the symmetry and inter-connectedness of life. The Circle Project in its presentation explained it as follows:

> **When considered in relation to the Hoop of Life, all aspects of personal development are connected to each other. This means that struggle and growth in any area must be accompanied by a parallel struggle and growth in others.**

Concerns about aboriginal youth losing touch with their culture prompted a suggestion that videos be used in schools to bring Elders teachings to children, or that Speaker's Programs be promoted to allow Elders and former aboriginal inmates to help aboriginal youth learn from the past.

The Committee is concerned about the number of youth who are subject to the criminal justice process and build up lengthy criminal records due to "system-generated" charges such as failure to appear or breach of a *Young Offender Act* disposition. Recent national data indicate that approximately a third of all youth recidivists are charged with system offences, and that 46% of those charges relate to failure to comply with a young offenders disposition.[44] Such charges may reflect a transient home life, lack of parental guidance, lack of transportation or lack of access to a phone. Initiatives to develop better supports for aboriginal youth involved with the criminal justice system might lessen the recurrence of these problems.

We believe that such suggestions for change in services to young aboriginal offenders deserve to be fully reviewed in an integrated fashion, taking into account fiscal and operational issues, to develop a progressive strategy for dealing with aboriginal youth in conflict with the law.

WE RECOMMEND THAT:

1.2 the Young Offenders Division of Social Services and Indian and Metis organizations undertake a joint review of support services to, and programs for, aboriginal young offenders to:

- **ensure an appropriate level of aboriginal access to, and participation in, the formulation and delivery of young offender programming, and mediation/diversion programming in particular;**
- **encourage the participation of Elders in the delivery of all facets of young offender programming, cultural and spiritual teaching and counselling in particular;**
- **improve the delivery of crime prevention programming to aboriginal youth;**
- **identify ways to better serve the treatment needs of aboriginal young offenders in relation to substance, psychological, sexual and physical abuse;**
- **reduce the incidence of offences against the justice system (e.g., failure to appear, failure to comply with disposition) among aboriginal youth; and**
- **consider options for establishing holistic programs in aboriginal communities (those which focus on spiritual, emotional, psychological, physical and material needs of young offenders), including open custody facilities.**

With over 70% of youth in custody being aboriginal, we recognize the need to employ aboriginal persons to work with these youth to ensure cultural sensitivity, to act as role models, and to decrease alienation.

We recognize that the Young Offenders Program Division of the Department of Social Services continues to look for opportunities to hire or contract with aboriginal persons. The Division advised us that although over 70% of the youth in custody are aboriginal, only 16% of the custodial positions are filled by aboriginal persons. Similarly, with aboriginal youth constituting over 40% of the youth dealt with under community dispositions, just 8% of community services staff are aboriginal. We are, however, encouraged by the fact that aboriginal service providers are more heavily utilized for alternative measures programs.[59]

WE RECOMMEND THAT:

1.3 the Young Offenders Program Division of Social Services, in consultation with Indian and Metis organizations, implement an employment equity program to achieve greater aboriginal participation at all levels: a minimum target would be the percentage of aboriginal people in Saskatchewan, the optimum a percentage of aboriginal staff equal to the percentage of aboriginal youth served.

The Committee was told that cross cultural training is a process which can sensitize service providers to the differences and similarities of other cultures. More sensitive service delivery is conducive to building relations that promote a better understanding among aboriginal and non-aboriginal peoples. In this context, cross cultural training is not a one way street, but an open window through which cultures are allowed to view one another and learn to accept and to respect their differences.

WE RECOMMEND THAT:

1.4 cross cultural and race relations sensitivity training be provided to all Young Offenders Program Division staff.

1.5 such training be provided to all new employees and on an ongoing basis in-service, and include a strong aboriginal component to familiarize participants with the history and contemporary situation of Saskatchewan Indian and Metis peoples.

1.6 Young Offenders Program administrators be trained to identify signs of racial intolerance and remedial training programs be provided to any staff exhibiting racist attitudes and behaviours.

1.7 where remedial training has not had its desired effect, appropriate disciplinary action should be taken.

Support for re-instatement of an aboriginal courtworker program was voiced by judges, lawyers, inmates, organizations and many individuals. Such a program would appear to be particularly valuable in urban youth courts to allow contact between aboriginal youth and an advisor prior to a first appearance in court. Court can be very intimidating for anyone and perhaps especially so for a youth who is unfamiliar with the language and primarily dealing with non-aboriginal authorities. Often the youth has no one to talk to except other streetwise youth. A courtworker might assist in locating a parent or other relatives for the youth, thus providing some support and lessening the potential for youth to be held in custody awaiting the next court appearance.

WE RECOMMEND THAT:

1.8 in consultation with Indian and Metis organizations, an Aboriginal Courtworker Program be established on a province-wide basis. Courtworkers would assist aboriginal youth (and adults) in conflict with the law to better understand and exercise their rights; enhance contact between accused and counsel; and serve as a liaison between accused and police, the courts, and young offenders programs (and corrections).

6. POLICING

(a) Introduction

Law Enforcement in Saskatchewan is presently the legislated responsibility of three levels of government: federal, provincial and municipal. As well, First Nations are planning for the development of Indian-controlled policing services within their territorial jurisdiction, but this is outside the mandate of this review.

The federal government, through the Ministry of the Solicitor General, other enforcement agencies, and the Royal Canadian Mounted Police (RCMP) in particular, is directly responsible for the enforcement of federal laws in the province. In addition, the RCMP provides law enforcement support services such as forensic labs, identification services, the Canadian Police Information Centre and the Canadian Police College.[60]

The provincial government in turn assumes responsibility for municipal and provincial policing. Municipalities with populations greater than 500 are policed either under contractual arrangements with the RCMP or by their own police services. In contrast, those with populations under 500 are policed by the RCMP under an agreement between the province and the federal government.

The Police Act, 1990 provides the legal framework for the Saskatchewan Police Commission, municipal police forces, and the contracting of policing services from the RCMP.

The Saskatchewan Police Commission oversees municipal policing in the province. It sets and enforces policing standards and provides officer training through the Saskatchewan Police College. The Commission's mandate also extends to promoting the improvement of police-community relations and crime prevention; and coordinating police activities to ensure uniform law enforcement and encourage co-operation between police services and other services.

Recently proclaimed, *The Police Act, 1990* creates an office of the Complaints Investigator. This office provides for independent investigation and review of public complaints against municipal police officers. The Act also provides for independent hearings in disciplinary cases against municipal police officers.[61]

About 46% of the Saskatchewan population is policed by 19 municipal police forces,[62] roughly one-third of which are located in medium-sized and larger urban centres (e.g., Regina, Saskatoon, Moose Jaw, Prince Albert, Estevan and Weyburn).[63] Municipal police enforce the general criminal law, provincial statutes and municipal by-laws within the boundaries of the municipality. Each municipal force has a board of police commissioners, comprised of 3 or 5 members, to provide general direction, policy and priorities for the police service.[64] Provincial policing consists of the enforcement of the general criminal law and provincial statutes. *The Police Act, 1990* provides the authority for the province to contract with the federal government for the services of the RCMP. Under contracts with the province and municipalities, the RCMP serves, in effect, as the provincial police force. It provides policing services to about 54% of the Saskatchewan population including rural areas, hamlets and villages, the north, Indian reserves and urban centres with populations of less than 20,000.[65]

There were 1,965 police officers in Saskatchewan in 1990, one officer for every 509 persons in the province. Of the 1,965 officers, 879 were employed by independent municipal police forces. The remaining 1,086 officers were employed by the RCMP — 285 under different contract arrangements with municipalities, 677 under contract arrangements with the province, and 139 to provide federal law enforcement services.[66]

Total operating expenditures by all three levels of government on policing in Saskatchewan in 1990 exceeded $152 million.[67] Overall, policing accounts for roughly 6 of every 10 dollars spent on justice services in the province.[68]

The Committee repeatedly heard of the need for aboriginal people to actively participate in the delivery of policing services. Further, policing is the most common point of contact between the aboriginal community and the criminal justice system. As such, policing often sets the tone for any alienation, cultural insensitivity or systemic racism which aboriginal people might encounter in their dealings with the criminal justice system.

(b) Urban Policing

We met with the chiefs of the Regina, Saskatoon and Prince Albert Police departments in September. All three officials recognize the need for police services to become more representative of, and responsive to, the communities they serve. And they are committed to increasing the number of aboriginal officers within their respective forces. However, the Committee notes that their efforts to recruit aboriginal officers have thus far met with little success. At present, there are 7 aboriginal officers on the Regina Police Service, out of a compliment of 341 officers (2%). Further, less than 1% (2 of 348) of Saskatoon and about 5% (3 of 65) of Prince Albert police officers are aboriginal.[69]

We understand that the Regina Police Service is finalizing an employment equity program, and that it will be forwarded to the Saskatchewan Human Rights Commission in the near future. Further, the service has adopted a clear policy on behaviour and conduct which addresses, head-on, the issues of racism and sexism. We commend these initiatives.

Likewise, we recognize that the Prince Albert Police Department has undertaken special measures to recruit aboriginal candidates including participating in summer student employment programs for aboriginal youth. Finally, we note that the Saskatoon City Police have recently enlisted the assistance of the Indigenous Studies Program of the University of Saskatchewan in their recruitment of aboriginal staff.

However, current efforts to recruit and employ aboriginal officers are insufficient. A clear public commitment to actively recruit, train and employ aboriginal people in the form of employment equity programming is required.

To echo the Manitoba Aboriginal Justice Inquiry, the advantages of having aboriginal officers are numerous and compelling. They include:

- the general public benefits from seeing aboriginal people in positions of responsibility, protecting the public peace;
- aboriginal officers assist other officers to better understand aboriginal cultures;

- aboriginal youth view such officers as good role models; and
- more generally, aboriginal officers enhance the capacity of police forces to provide services which are respectful of, and responsive to, the needs of aboriginal people.[70]

WE RECOMMEND THAT:

2.1 the Regina, Saskatoon and Prince Albert police services and other municipal police forces where appropriate, in consultation with Indian and Metis organizations, immediately implement, or accelerate existing plans to implement, employment equity programs to achieve aboriginal participation equivalent to the aboriginal proportion of the population served.

As noted earlier, (municipal) boards of police commissioners and the Saskatchewan Police Commission play an important role in shaping the overall course and direction of policing services in urban Saskatchewan. Aboriginal input into such bodies is essential.

From time to time, the Saskatchewan Police Commission and various boards of police commissioners have included aboriginal representatives. However, with the notable exception of the laudable appointment of a member of the Prince Albert Tribal Council to serve on the Prince Albert Board of Police Commissioners, such appointments have frequently been made without the benefit of adequate consultation with representatives of the Indian and Metis communities.

WE RECOMMEND THAT:

2.2 the Regina, Saskatoon and Prince Albert Police Commissions and other police commissions as appropriate include representation from the aboriginal communities of each centre; and that such representatives be appointed only following consultations with Indian and Metis organizations.

2.3 the Saskatchewan Police Commission include at least one representative from the Saskatchewan aboriginal community, and that s/he be appointed only following consultation with Indian and Metis organizations.

The challenges inherent in implementing innovative programming and employing greater numbers of aboriginal people in all spheres of policing are many, particularly at a time when funds are scarce and the hiring of new personnel has been sharply curtailed, if not frozen. It will take not only time and commitment, but special knowledge, skills and expertise.

In its brief to the Committee, the Saskatchewan Police Commission indicated that it wishes to appoint a cultural relations coordinator but has been unable to secure the funds to do so. The coordinator would "act as a resource person for municipal police departments and assist such police departments to further initiatives in the recruitment, retention, and policing of aboriginal peoples." They continue:

> **Such a resource person is necessary, at least in the short-term, to assist police departments and Boards of Police Commissioners to make intelligent choices in how to approach the problems and implement the solutions. Each urban police department is autonomous, and the experience of each of the police departments as they struggle towards solutions in this area should be available to all departments, and it is the view of the commission that a knowledgeable person who is in a position to assist, encourage, and educate board members and senior police officers in the development of program change would be extremely beneficial and cost effective.**

WE RECOMMEND THAT:

2.4 an aboriginal liaison/cultural relations officer position be established within the Saskatchewan Police Commission to serve as a resource/advisor for municipal police departments and the Commission on matters such as cross cultural education and race relations training; aboriginal officer recruitment, supervision and retention; and the provision of policing services to the aboriginal community.

(c) Cross Cultural and Race Relations Sensitivity Training

It is important that cross cultural and race relations sensitivity training be provided on an ongoing basis to every employee of every Saskatchewan police department.

At present, 20 hours of cross cultural training is provided to officer recruits enroled in the Saskatchewan Police College. We note that the Regina Police Service has established a Cultural Relations Unit with a focus on improving communication with, and services to, the aboriginal community as well as visible minorities. In addition, Regina constables in the 5 to 8 year service range currently receive 3 hours of follow-up instruction. We recognize that the RCMP operates extensive programming in this area, both during basic training and in-service, but suggest that more attention needs to be devoted to its aboriginal-specific component.

It bears repeating that cross cultural training is by no means a one way street, and that aboriginal people also stand to gain by developing a fuller appreciation of the workplace culture of law enforcement and the conflicts and tensions that police encounter in the course of their duties. In addition, as the Saskatchewan Police Commission notes, cross cultural training can enhance an officer's effectiveness and communications skills and ability to avoid unnecessary confrontation and force.

While it would be a mistake to assume that cross cultural training, in and of itself, will eliminate racism within police ranks, it is an important element of any undertaking in this regard, and has the potential to sensitize police to the worldviews and cultural practices of the Indian and Metis peoples of the province, both past and present.[71] Cross cultural training also has the potential to address the uncomfortable fact that many aboriginal people and Euro-Canadian police officers are alienated from each other.

But with this said, we know little about the impact of cross cultural training upon the sensibilities and work practices of participants. Admittedly, this is a complex question. Nonetheless, it must be addressed.

Police officers in remote/reserve/northern communities represent their force virtually 24 hours a day. In a similar vein, members of an officer's family would benefit from an understanding of the aboriginal cultures and traditions of the community in which they reside and their parent/spouse works.

WE RECOMMEND THAT:

2.5 cross cultural and race relations sensitivity training be provided to all officers and civilian support staff of Saskatchewan police forces.

2.6 such training be provided to new recruits and on an ongoing basis in-service, and include a strong aboriginal component to familiarize participants with the history and contemporary situation of Saskatchewan Indian and Metis peoples.

2.7 cross cultural and race relations sensitivity training include an evaluation component to assess the impact of such training.

2.8 wherever appropriate, spouses and children participate in training sessions, especially in instances where assignment to a reserve/remote/northern posting is anticipated.

(d) Recruitment, Supervision and Retention

Judging from the results, the aboriginal recruitment efforts of the major municipal police forces have, by and large, met with failure. This is the case, at least in part, due to two factors: the inability of conventional recruitment practices to effectively reach out into the aboriginal community; and the fact that many aboriginal people do not meet entrance requirements.

As a result, it is important that current recruitment strategies and standards be reviewed, and consideration given to special pre-employment training such as that jointly operated by the RCMP and the Gabriel Dumont Institute for a time in the late 1980s.[72] A second option worthy of consideration is a work/study program modeled on the RCMP Aboriginal Constable Development Program. Under the latter, a 2 year program introduced in 1990, eligible aboriginal candidates are "pre-hired" and assisted to meet all entrance requirements prior to recruit training.

We propose that the municipal forces join together for this purpose, both to learn from past mistakes and to maximize scarce resources and avoid unnecessary program duplication.

Racial intolerance is a complex mix of stereotypic beliefs and prejudicial behaviours. It would be naive in the extreme to assume that police recruits are any more immune from its effects than other sectors of the population. It may also be naive to assume that any test or tests could be designed to detect such biases through "pre-screening" for its presence among recruits.

Nonetheless, with the assistance of the Canadian Centre for Police-Race Relations, this is an area which merits further investigation. (The Centre was established in 1990 with a broad mandate to conduct research and prepare and distribute resource materials on ways to enhance police relations with, and services to, visible minorities and aboriginal people. As part of this wider mandate, the Centre conducts research on police recruitment, selection, training and performance appraisal including cross cultural training.)

Critical to the success of any employment equity program is the provision of ongoing services to foster a supportive workplace environment. As the Saskatchewan Police Commission noted in its brief, "there must be effort made on the part of both boards and chiefs to ensure that their workplace is one in which aboriginals feel comfortable working in."

Great care must be taken to ensure that such support services are neither patronizing nor gloss over problems of racism in the workplace. Where warranted, programs should be accessible on a confidential basis. We acknowledge that the RCMP currently provides a Members Assistance Program to assist with work-related stresses and problems, and that similar programs are operated by many municipal police departments. Nonetheless, specific attention must be devoted to the unique stresses that aboriginal members face.

Cross cultural training is of limited value if it is not applied in the daily provision of police services to the aboriginal community. Processes and mechanisms to appraise the use of such communications and human relations skills in day-to-day policing are required. Current appraisals may not acknowledge the use of cross cultural skills and require revision. Alternately, existing appraisals may not give sufficient weight to such skills.

Finally, police departments need to formulate clear and consistent policies regarding discrimination on the basis of race and, we hasten to add, sex. Once more, we commend the Regina City Police Service for its actions in this regard. As the Manitoba Aboriginal Justice Inquiry has observed:

> **Racist conduct can be addressed, to some extent, by a combination of carefully thought out cross cultural educational programs given to recruits and older officers alike, use of clear and consistent police procedures, and strong and unequivocal leadership. However, the strongest method of combatting racism is through a clear and unequivocal policy on the part of senior officers of not tolerating such behaviour and of formally disciplining those whose conduct implies overtly or covertly racist approaches to their duties.**[72]

WE RECOMMEND THAT:

2.9 the Regina, Saskatoon and Prince Albert police services and other municipal police services as appropriate, in consultation with Indian and Metis organizations and institutions, develop a co-ordinated aboriginal pre-employment training and recruitment program.

2.10 the Saskatchewan Police Commission and the RCMP Aboriginal Policing Section, in co-operation with the Canadian Centre for Police-Race Relations, Ottawa, review current recruitment standards to ensure that they are not culturally biased against aboriginal persons, and examine the merits of developing screening devices for racial intolerance.

2.11 the RCMP and the Regina, Saskatoon and Prince Albert police services and other police services as appropriate develop programs to assist aboriginal officers to handle the pressures and stresses associated with their work. Such programs could include peer support, employee assistance, counselling and mentoring.

2.12 the RCMP and the Regina, Saskatoon and Prince Albert police services and other municipal police forces as appropriate, in collaboration with aboriginal organizations and institutions, develop an instrument to assess the application of cross cultural skills to police work; and that officer performance appraisals include an evaluation of an officer's application of such skills in day-to-day interaction with aboriginal co-workers as well as members of the wider aboriginal community.

2.13 police administrators be trained to identify signs of racial intolerance and remedial training programs be provided to any staff exhibiting racist attitudes and behaviours.

2.14 where remedial training has not had its desired effect, appropriate disciplinary action should be taken.

(e) RCMP

(i) Aboriginal Recruitment

In sharp contrast to its municipal counterparts, the RCMP has made significant strides in employing aboriginal officers and civilian support staff. As of September 1991, 91 of 1,100 officers (8%) in the Saskatchewan RCMP officer contingent were aboriginal. In addition, the force has actively participated in a variety of summer and work/study programs for summer students.

RCMP (provincial policing) services in Saskatchewan are provided under the direction of the Commanding Officer, "F" Division, with headquarters in Regina. The province is divided into 6 subdivisions. The 6 subdivisions in turn provide support services and supervision to 115 detachments.[74]

In 1974, the Indian Special Constable (ISC) Program, often referred to as the 3(b) option, was initiated to recruit Indian members to the force. Its introduction was preceded by consultations involving the Federation of Saskatchewan Indians, Indian and Northern Affairs Canada, the RCMP, and the Saskatchewan Attorney General. The program is credited with significantly improving relations between the RCMP and Indian people in the province.

Conventional recruitment channels had proven ineffective in attracting Indian applicants, and in recognition of this fact ISC applicants were not required to meet the same educational, visual acuity (vision) and other qualifications as regular members. However, although their duties were in practice similar, the salaries paid to ISCs were lower than those paid to regular members, and the training period shorter.

By 1990 there were 39 Indian Special Constable (ISC) positions in the province. The program was cost-shared between the province and INAC on a 54/46 basis. Further, 9 converted "regular" positions were added in 1987 to permit the hiring of Metis and non-status Indian candidates to provide policing services to predominantly Metis communities in the north and northwest of the province. As well, 6 reserve-based Native Policing Units, each staffed by two aboriginal members, have been established, with plans for 3 more in the next 5 years.

The RCMP began to phase-out the Indian Constable Program in 1990. Special Constables were subsequently upgraded to regular member status following additional training. The rationale for the phase-out was that the position of Special Constable had acquired a "negative stigma" due to its lesser status, lower rate of pay and lack of career path.

Despite its shortcomings, the Special Constable Program is viewed by many as an example of an employment equity program that worked. We commend the RCMP for its foresight in this area. The ISC was replaced by the Aboriginal Constable Development program in 1990. At present, a 3 member Aboriginal Policing Services Section coordinates the delivery of aboriginal programming in the province.

One gauge of the Indian Constable Program's success is the fact that there are currently in excess of 300 aboriginal applicants, many fully qualified, in Saskatchewan. The number of applicants far outstrips the number of available openings. We are informed that declining turnover rates and fiscal restraint measures will result in just 7 Saskatchewan applicants being hired this year.

(ii) Community-based Policing

Community-based policing is a notion which has gained wide currency in recent years. In the broadest sense, it marks a shift away from reactive to proactive approaches which emphasize an active partnership between communities and police in the identification and resolution of crime and related social problems.

Community-based policing has a number of characteristics which have the potential to improve policing for aboriginal people including:

- it can be responsive to local concerns;
- it can expand the role of police in enhancing a community's quality of life;
- it encourages a community to take an active role in dealing with crime problems; and

- it can be flexible to change and more in keeping with aboriginal cultural traditions.

The RCMP has embraced the concept of community-based policing and undertaken a number of initiatives in an effort to build bridges with the Indian and Metis communities that it serves. For example, we were informed that the RCMP provides briefings on local conditions prior to assignment to a northern/predominantly aboriginal posting on an optional basis.

While briefings are a step in the right direction, we heard many expressions of concern that officers were parachuted into northern detachments with little appreciation or understanding of local conditions. It strikes us that formalized orientations which include face-to-face meetings with community representatives are a sound application of community-based policing principles, and could help to alleviate such concerns.

Likewise, we would suggest that the RCMP consult with local communities regarding the desired knowledge and skills of officers to be posted in remote communities. There is a perception in more than one northern community that some officers are transferred to remote postings as a form of punishment or disciplinary action for past misdeeds. Although we think it unlikely that this is the case, it clearly illustrates the need for better lines of communication between the force and the communities it serves. We would also be remiss if we failed to note that we found a disturbing level of animosity and mistrust between some members of the force and community members in at least one northern community.

The RCMP has established advisory committees in a number of centres to meet and discuss local policing priorities and issues. Citizens from several communities that we visited indicated that many of the individuals who sit on the advisory committees are non-aboriginal and lack a full appreciation of the communities that the advisory boards are to serve. Further, it was suggested that representatives may be hand-picked to exclude critical voices. Lastly, it was suggested that there was a lack of accountability to the community at large, and as such, that the advisory committees were little more than a place to let off steam.

The Committee acknowledges that the RCMP is sincere in its efforts to foster community involvement in, and ownership of, police services. But the force needs to examine the advisory committees to ensure that they have adequate representation from all sectors of the community and are consistent with community-based approaches to policing and accountability.

WE RECOMMEND THAT:

2.15 the RCMP provide localized orientations prior to assignment to an aboriginal posting, northern and reserve postings in particular; and that such orientations include meetings with community representatives (e.g., First Nations councils, Metis Regional Councils, hamlet/village/town representatives, etc.).

2.16 the RCMP review its community advisory committee structures to ensure that they are in accord with community-based approaches to policing and accountability, and, more specifically, that they provide for community input into the selection of committee members.

2.17 the RCMP consult with local First Nations, Metis and northern government representatives regarding the desired knowledge and skills of officers to be transferred to remote postings.

(iii) Indian Policing Policy

The Committee has heard certain First Nations governments speak to the issue of establishing separate and autonomous police programs under the auspices of the recently announced federal Indian Policing Policy. We recognize the RCMP commitment to work with these groups and federal and provincial authorities to facilitate these initiatives as appropriate.

Specifically, in June, 1991, the federal government announced a new Indian Policing Policy with funding of $116.8 million nation-wide over five years. The policy is based on tripartite arrangements between the federal and provincial governments and Indian organizations. The policy proposes cost-shared support (52% federal and 48% provincial) for: Indian administered police services whether delivered by bands, tribal councils or provincially; and special contingents of Indian officers to specifically serve an Indian community. The federal proposal requires that provincial legislation be used as a legislative base, and, in a Saskatchewan context, applies only to on-reserve policing services.

This policy follows on a lengthy review of Indian policing policy begun by the creation of a Task Force in 1986 and concluded with the publication of the Task Force's report in 1990.[75] The objectives for policing of Indian communities, derived from the Task Force report, include:

- ensuring adequate levels of police;
- addressing community sensitivity;
- ensuring adequately planned and coordinated services;
- developing appropriate complaint mechanisms;
- providing consistency with Indian self-government activity;
- ensuring independence from First Nation or band governance but accountability to the community; and
- recognition of current roles for all levels of government.

Many options are available to enhance the involvement of aboriginal people in policing. They range from the creation of First Nations police forces on a provincial, tribal or band level, to contract services with the RCMP, to more informal involvement of aboriginal people in policing activities.

The Committee was advised of: the existence of tribal police forces such as the Blood and Louis Bull forces in Alberta; specific native policing units of the RCMP operating out of satellite offices on reserve such as those currently operating at Little Pine/Poundmaker, Red Earth/Shoal Lake, Sandy Lake, Dillon, Thunderchild and Stanley Mission; and the potential of direct participation of community volunteers with police as auxiliary members, trainees, or concerned citizens. The latter offers the opportunity to build practical policing skills and to determine interest in policing careers.

WE RECOMMEND THAT:

2.18 Saskatchewan First Nations communities, in collaboration with the RCMP and federal and provincial government departments, determine their policing needs and identify appropriate community-based policing options (e.g., tribal police, satellite detachments, auxiliary officers, the Ventures Program, field placements, ride-alongs), whether under the provisions of the Saskatchewan *Police Act, 1990*, RCMP arrangements or First Nations policing legislation.

(f) Communications and Accountability

(i) Communications

Responsibility for aboriginal policing matters within the RCMP in the province rests with the Aboriginal Policing Services Section. This Section coordinates the force's policy on such matters at the provincial level and provides a focal point for a wide range of aboriginal-specific recruitment, substance abuse, family violence, crime prevention and other initiatives. The section consists of one Inspector and two Corporals. Nationally, an Assistant Commissioner is in charge of an Aboriginal Policing Services Directorate. The present location of Aboriginal Policing Services within the RCMP organizational hierarchy conveys to all concerned the importance that the force attaches to such services.

The Committee acknowledges that the major municipal police forces have undertaken a number of important initiatives in recent years to open previously closed avenues of communication with Indian and Metis communities.

For its part the Regina City Police Service has a Cultural Relations Unit in place as well as school-based programs intended to foster better relations with youth, particularly in the inner city. Also worthy of note is a ride-along program in Prince Albert involving students from the Gabriel Dumont Institute Human Justice Program. Finally, we acknowledge the recent efforts of the Saskatoon City Police to foster better relations with residents of the predominantly aboriginal, inner city neighbourhoods of Pleasant Hill and Riversdale through a variety of activities.

Nevertheless, at least in part due to the virtual invisibility of aboriginal officers within police ranks, there is a widely shared perception that municipal police forces have failed to give aboriginal policing issues the attention they merit. We agree.

A senior aboriginal liaison officer within each major municipal police department is required, both to ensure that good intentions are translated into concrete action; and to underscore the commitment to redress the under-representation of aboriginal officers and civilian support staff in a systematic way.

WE RECOMMEND THAT:

2.19 a senior-level aboriginal liaison position, preferably staffed by an aboriginal person, be established in the Regina, Saskatoon and Prince Albert police services and other municipal police services as appropriate to provide a focal point for police-aboriginal community relations and to co-ordinate policy regarding matters such as cross cultural education and race relations sensitivity training; aboriginal officer recruitment, supervision and retention; and the provision of policing services to the aboriginal community.

2.20 municipal police forces, in collaboration with Indian and Metis organizations, examine options to improve lines of communication with aboriginal communities, including community-based policing.

(ii) Complaints against Police

Pursuant to our terms of reference, we did not consider individual grievances against police. However, as noted in our Interim Report, we heard a number of concerns with respect to police conduct in their dealings with aboriginal people. Concerns revolved around matters such as excessive use of force, disrespect for the rights of accused persons, selective enforcement practices, multiple charging, witness intimidation, the mistreatment of accused persons while in police custody, police harassment, and disrespect for aboriginal custom and tradition.

Tragically, and not without reason, few aboriginal people have faith in existing complaints investigation processes. By and large, they consider the mechanisms currently in place to entail little more than "police investigating police" and, as such, fundamentally incapable of conducting fair and impartial investigations of their complaints.

At the same time, however, we found that few people understood how complaints are lodged and investigated, and even fewer have actually lodged a formal complaint about their treatment at the hands of police. For example, we were informed that just 7% (10 of 137) of complaints lodged against Saskatoon City Police in 1990 originated with aboriginal complainants, as did 12% (5 of 33) of those registered against the Regina Police Service through September 1991. Some might find comfort in these figures, and suggest that they indicate general satisfaction with police services among members of the aboriginal community. However, it is equally plausible to suggest that they are indicative of a general lack of confidence in the effectiveness of complaints review processes.

There is, we suggest, both a problem of perception and a real problem. Two agencies deal with complaints against police in Saskatchewan, the newly established Office of the Complaints Investigator, which deals with complaints against municipal police forces; and the RCMP Public Complaints Commission, which deals with complaints against members of the RCMP. Each is briefly described below.

The Police Act, 1990, enacted in January 1992, establishes a new process for dealing with public complaints against municipal police. Operating independently of the Saskatchewan Police Commission, the Complaints Investigator monitors how municipal forces handle complaints. The investigator works with local Police Chiefs and local Boards of Police Commissioners in assessing the merits of any public complaints, and has the authority to conduct investigations into public complaints where s/he deems it necessary.

This legislation sets out a detailed procedure regarding the receipt, investigation and resolution of complaints from the public. It also provides for a range of disciplinary actions to be taken against officers who are found to have committed an offence under the regulations governing police conduct. For a more detailed description of this process see Appendix 6.

Whether or to what extent this process will address concerns raised in the course of our hearings remains to be seen.

In any event, alternative models of civilian review should be examined to assess their suitability to Saskatchewan. Several presenters called for a civilian review agency to better address the interwoven issues of racism, policing and community accountability.

WE RECOMMEND THAT:

2.21 the Complaints Investigator and municipal police services undertake and/or expand programs to inform the public, and aboriginal communities in particular, about procedures in place to register and investigate complaints regarding police conduct and services. Where warranted, such information should be available in aboriginal languages.

2.22 the Saskatchewan Police Commission and municipal police services collaborate with Indian and Metis organizations to assess options under the Saskatchewan *Police Act, 1990* to develop a citizen's complaint review mechanism credible to the Indian and Metis communities.

The RCMP Public Complaints Commission was established in 1988 to ensure that complaints regarding the conduct of force members are examined fairly and impartially.

The Commission is independent of the RCMP. It has the authority to review RCMP investigations of, and reports on, public complaints. Should the Commission conclude that the RCMP failed to deal satisfactorily with a complaint, it can investigate the complaint further, ask the RCMP to investigate further, make a report with findings and recommendations, or institute a hearing. See Appendix 7 for a more detailed description of this process.

A Prairie Region office, located in Edmonton, was opened in 1990. Tentative plans call for the establishment of a satellite office in Saskatchewan in the fall of 1992. A total of 93 complaints were registered against the RCMP in Saskatchewan in 1990-91.[76] We were informed that just 4 or 5 (5%) originated with aboriginal complainants. Given the high levels of aboriginal conflict with the law, all other things being equal, aboriginal people should comprise a higher percentage of complainants. However, for a variety of reasons, not least among them a lack of confidence in, and familiarity with, existing complaints review processes, this is not the case.

Although a Public Complaints Commission representative toured Saskatchewan last year to meet with members of the aboriginal public to explain the Commission's mandate, this effort was of little apparent consequence.

As the RCMP Public Complaints Commission recently noted,

> **It is confusing for citizens of a province to have two different public complaints systems and two different review bodies—one for the RCMP and one for other police forces.[77]**

In response, it advocates, to the extent that current statutory mandates allow, the development of joint or co-operative communication programs with provincial Police Commisions to promote better understanding of public complaints processes.[78]

We agree with this suggestion but would go one step further. While acknowledging that a variety of jurisdictional hurdles would have to be overcome, for both fiscal and program reasons, we propose that the feasibility of establishing a single agency to review complaints against all Saskatchewan police be examined.

WE RECOMMEND THAT:

2.23 the RCMP Public Complaints Commission undertake a major public education campaign in Indian and Metis communities on its mandate, how to register a complaint, and how a complaint is investigated. Where warranted, such information should be available in aboriginal languages.

2.24 provincial and federal government departments examine the feasibility of amalgamating the review of complaints against the RCMP and municipal police forces under a single review agency.

---

7. LEGAL REPRESENTATION

(a) Introduction

The Committee heard from judges, lawyers, organizations and individuals that the understanding that aboriginal peoples have of the criminal justice process was hampered by a variety of factors, ranging from difficulties in speaking with counsel to obtaining information and support to assist in understanding the criminal justice process.

Judge Moxley, of the Provincial Court of Saskatchewan, in a written submission to the Committee remarked that:

> **While joining the chorus of those crying for more government resources may be of little use in these days of scarce government funds, the point must be made that scarce resources have forced us into the position (and even more the legal aid lawyers) of working with unseemly haste. Accused persons are often churned through our dockets with an efficiency that would make Henry Ford proud, but which must make any onlooker unused to our courts wonder whether justice can be done in such rush, and indeed, in many cases it probably cannot. Who knows what sentences could be crafted that would much better suit the situation if time were available for the lawyer to research the options available to his client, and for the judges to reflect with a bit of leisure on the appropriate disposition.**

(b) Aboriginal Courtworkers

Throughout this review we heard repeatedly of the need to re-instate an aboriginal courtworker program. Various opinions were expressed as to how such a program should be operated whether as part of Legal Aid, another provincial system or through local aboriginal organizations. The Committee is pleased to note that even before this report was released and our recommendation on courtworkers made public, the provincial and federal governments, the Federation of Saskatchewan Indian Nations and the Metis Society of Saskatchewan jointly initiated a process to facilitate a feasibility study regarding an aboriginal courtworker program for Saskatchewan.

The previous program was terminated in July, 1987, due to fiscal restraint. Before establishing a new program, issues of program mandate, delivery, training and costs will need to be reviewed. In addition to the local support voiced for re-instatement of the program, the Committee notes that numerous reports, including the recently released Law Reform Commission of Canada report, *Aboriginal Peoples and Criminal Process*,[79] stress the importance of providing aboriginal courtworker programs and enhancing the services provided by such programs. The Committee also notes that such programs are provided in other jurisdictions, including Manitoba and Alberta.

WE RECOMMEND THAT:

3.1 federal and provincial government departments, in collaboration with Indian and Metis organizations, establish an Aboriginal Courtworker Program on a province-wide basis. Courtworkers would assist aboriginal adults and youth in conflict with the law to better understand and exercise their rights; enhance contact between accused and counsel; and serve as a liaison between accused and police, the courts, young offenders programs and corrections.

(c) Legal Aid

Given that many aboriginal people live at or near the poverty level and are over-represented in the criminal justice system, the Committee recognizes that many Legal Aid clients are aboriginal. In fact, Legal Aid, along with the police, may well be the area of primary point of contact between aboriginal people and the criminal justice system. Thus, concerns about cultural sensitivity, language barriers and appropriate access to legal services can have a significant impact on an aboriginal person's perception of, and access to, the criminal justice system.

For example, Vital Morin speaking at the public meeting in Buffalo Narrows indicated that:

> **Legal Aid is no help at all – they just say plead guilty and we will get you a small fine or something.**

An inmate speaking in the Saskatoon Correctional Centre complained that Legal Aid intimidates the accused, encourages guilty pleas, is too busy to prepare their cases, and acts as judge and jury in determining whether one gets time or not and how much.

In contrast, Don Morgan, Q.C., Chairman of the Legal Aid Commission, in responding to concerns about the legal aid system noted in the Interim Report, stated that:

- While the Legal Aid Commission was facing increasing difficulty in maintaining reasonable levels of service, it *will not* compromise legal competence and legal professionalism.
- Legal Aid lawyers often lack the time and resources to be sensitive to clients needs and to develop any real communication.
- Legal Aid lawyers make judgment calls with regard to what charges can be defended and what charges have to be dealt with by way of guilty plea or plea bargain. Legal Aid will only defend charges in situations where there is a possible defence that has a reasonable professional merit.

- He took issue with any suggestion that accused are intimidated by the system into pleading guilty, and suggested that the courts were doing a reasonably adequate job in directing clients to Legal Aid when there was any doubt as to whether an unrepresented accused was aware of the consequences of a guilty plea.

Ensuring that aboriginal people are involved as lawyers, paralegals or otherwise serving the needs of Legal Aid clients is one way to address communication and alienation concerns. Nevertheless, recruitment of aboriginal lawyers to the Legal Aid system is currently hampered by a lack of aboriginal lawyers. We say "currently" because the Committee recognizes that existing Saskatchewan programs may help to remedy this problem.

Saskatchewan has been in the national forefront in recognizing the need for more aboriginal lawyers, and in 1975 the Native Law Centre was established at the University of Saskatchewan. The Centre's pre-law studies program concentrates on skills development for entry into law school. In all, 586 aboriginal students from across Canada have participated in the summer program since its inception. There are currently about 188 aboriginal law students in law schools across Canada, 139 of whom are alumni of the Native Law Centre.[80]

The Committee acknowledges two briefs from Legal Aid staff lawyers which support the establishment of employment equity programs. The Legal Aid Commission needs to work proactively to increase its' compliment of aboriginal lawyers by encouraging aboriginal students at law to article with them. However, we also note that the Legal Aid Commission has taken steps to address these concerns by recruiting aboriginal lawyers, looking for lawyers fluent in Cree or Dene, and supporting paralegals and lawyers training in aboriginal languages.

WE RECOMMEND THAT:

3.2 in consultation with Indian and Metis organizations, the Legal Aid Commission implement an employment equity program to achieve greater aboriginal participation at all levels: a minimum target would be the percentage of aboriginal people in Saskatchewan, the optimum a percentage of aboriginal staff equal to the percentage of aboriginal clients served.

Resourcing for Legal Aid and the distribution or assignment of Legal Aid resources was questioned, particularly in the north.

In his brief to the Committee, Robert McCann, Director of the La Ronge Legal Aid office, stated:

> The resources of the La Ronge Legal Aid office should be radically expanded. Presently, it is staffed by four lawyers, one paralegal and three legal secretaries. (A fifth lawyer has been hired on a temporary basis only for the period from October 15 - January 15, 1992.) For the numbers of cases handled each year, and taking into account the travel time involved in getting to and from court, this is far too

> **small an office. Some years ago, the Legal Aid Commission was the subject of a study by the DPS Group – a firm of consultants retained by the federal government. Their research showed that the average case in the Legal Aid office in LaRonge received about one-half of the professional time than a case in some Legal Aid offices in the southern part of the province. Internal Legal Aid statistics bear this out. The La Ronge office has about twice the case load per lawyer of some other Legal Aid offices in Saskatchewan. It is my view that there is no possible justification for this, and that it amounts to a type of institutionalized discrimination against all the people of northern Saskatchewan.**

McCann goes on to suggest that the Legal Aid Commission hire "paralegals" to assist in northern communities, even if only on a part-time basis, to act as the initial contact for persons applying for Legal Aid, interview witnesses, and so forth.

Recognizing an aboriginal courtworker program may impact on Legal Aid, the Committee does not feel it appropriate to make specific recommendations on Legal Aid resource needs at this time. However, a variety of resource issues — such as greater use of paralegals and articling students, new northern offices, hiring more lawyers — need to be addressed.

WE RECOMMEND THAT:

3.3 in consultation with Indian and Metis organizations, a review of Legal Aid services be undertaken to identify funding and staffing assignment options to enhance the effectiveness of criminal Legal Aid services to Saskatchewan aboriginal communities, especially in the north.

For the reasons previously stated, Legal Aid services have a significant effect on aboriginal perceptions and understanding of the criminal justice system and its impact upon them. In order for counsel to adequately represent aboriginal people, they must have an appreciation of the cultural/spiritual background of an accused. Don Morgan noted in his submission that although efforts have been made to train lawyers in the area of cross cultural sensitivity, there is still a significant gap in understanding "that is not always bridged in the short time the lawyer spends with the client." However, he suggested that the problem may be more properly viewed as one of a lack of time and resources to empathize with, and explain the process to, aboriginal clients, than a direct issue of cultural insensitivity. Further, he indicated the Commission's willingness to address cross cultural issues through on-going training, and we support this approach.

WE RECOMMEND THAT:

3.4 cross cultural and race relations sensitivity training be provided to all Legal Aid staff.

3.5 such training be provided to all new employees and on an ongoing basis in-service, and include a strong aboriginal component to familiarize participants with the history and contemporary situation of Saskatchewan Indian and Metis peoples.

3.6 Legal Aid administrators be trained to identify signs of racial intolerance and remedial training programs be provided to any staff exhibiting racist attitudes and behaviours.

3.7 where remedial training has not had its desired effect, appropriate disciplinary action should be taken.

Aboriginal involvement in the delivery of Legal Aid services can help ensure culturally appropriate services, empower the community, and lessen feelings of alienation. It is important that the Board of the Legal Aid Commission reflect the communities that it serves. We suggest that more than the current level of aboriginal representation, one member, is required.

WE RECOMMEND THAT:

3.8 the board of the Legal Aid Commission include a minimum of 2 representatives from the aboriginal community; and that such representatives be appointed only following consultations with Indian and Metis organizations.

Submissions from both Legal Aid staff and aboriginal community representatives promoted the re-establishment of community advisory boards to help bridge the gap between Legal Aid lawyers and Indian and Metis communities. We support this suggestion.

WE RECOMMEND THAT:

3.9 the *Legal Aid Act* be amended to authorize the Commission to establish regional advisory bodies with appropriate aboriginal representation to provide community-level input into Commission policies and programs.

---

8. SENTENCING ALTERNATIVES

The existing Canadian justice approach has not proven satisfactory to aboriginal people. Many presenters stressed the need to examine alternatives to present sentencing practices, incarceration in particular, and appropriate community-based sanctions, including mediation and holistic treatment services.

However, the identification of appropriate and effective sentencing alternatives is a complex matter. It may require further research to develop programs which meet individual, community and society needs. A recent report on *Sentencing Patterns and Sentencing Options Relating To Aboriginal Offenders* notes that there are significant gaps in existing knowledge about offenders, their offences and the effectiveness of their dispositions. While the extent of any sentencing disparity between aboriginal and non-aboriginal persons is not known, it is suggested that:

> **The issues of native/non-native sentencing disparity and availability/accessibility of appropriate sentencing alternatives are distinct and yet related. They are distinct in that each issue raises its own set of research questions with concomitant sources of information and methodologies. They are related to the extent that policymakers and program planners must recognize that the way groups of people are sentenced through the decision-making process cannot be disassociated from the ways in which they are to engage in the restitution/rehabilitation process generally demanded by our society. For example, are more treatment-oriented institutional programs required for native offenders in view of the crimes for which they are being sentenced (i.e., a high proportion of alcohol-related offences)? This is related to the question of the role of judges in the decision-making process ... how are judges to deal with certain individuals and groups (e.g. natives) when they are aware that appropriate post-sentence facilities are not available?"**

These concerns are not, of course, confined to the aboriginal community. As Therese Lajeunesse notes:

> **Many of the weaknesses identified by aboriginal people about the justice system have been identified by the mainstream or dominant society and have led to the development of alternative conflict resolution systems. Explanations for the rejection of formal legal institutions, rights and processes have included: the need to reduce overburdened courts; the recognition that the adversarial approach of litigation is not always appropriate for many types of disputes; the desire to mobilize community talent in solving disputes at the neighborhood level; and the search for a more appropriate means to deal with conflict generally.**
>
> **More specifically, critics of the criminal justice system echo similar comments often made by aboriginal people. The adversarial justice system does not always promote effective conflict resolution but rather polarizes and enflames the conflict to the point that an accused is found to be "guilty" or "not guilty". The victim rarely enjoys any compensation or satisfaction for her or his often marginal participation in the process. The community has no role and the**

> **"state" represents the aggrieved party. The three sentencing principles of deterrence, punishment and rehabilitation in reality do little to address the nature of the conflict nor the prevention of future conflict...**
>
> **Conflict in different cultures, for example, in the Aboriginal cultures, is viewed in a holistic fashion rather than our individual-based approach. The community generally takes ownership for the conflict; Western societies view conflict as between or among the actual disputants.**
>
> **Also, confrontation is not an acknowledged or culturally appropriate manner for dealing with conflict. This illustrates the differences with the Western model which relies on direct verbal communication, often of a confrontative nature. In mediation, this is key to fact finding so that the mediators are presented with objective facts which will help them facilitate an agreement among the disputants.**
>
> **The Aboriginal view of conflict as holistic and communication which may often encompass more than the actual facts of an individual dispute, offers a profound difference from our own manner of proceeding in a mediation session.**[42]

Alternative dispute resolution may encompass mediation, diversion, and community-based services such as Peacemakers. This approach can be used to address a narrow scope of offences or may be used more broadly to address local feuds between neighbours and families. This approach could also be used to deal with hunting and fishing disputes. The scope of the service depends on the level of community support for, and acceptance of, such programming.

Some Saskatchewan aboriginal communities are already working on such an approach. For example:

- a Community Justice Committee in Buffalo Narrows recently met with representatives from Saskatoon Community Mediation Services to discuss the potential for establishing a community-based Victim/Offender Mediation Program;
- a diversion/mediation project for aboriginal and non-aboriginal offenders funded by Saskatchewan Justice is scheduled to start operating in North Battleford in early 1992. Discussions with local First Nations on how best to serve aboriginal victims, offenders and communities are underway;
- the Battlefords Justice Advisory Council is actively working with representatives of the Battlefords aboriginal community to determine a course of action to address justice concerns in the area.

Organizations currently offering mediation programs also made presentations to the Committee. They noted the shortcomings of current programs in terms of serving aboriginal offenders and victims. Concerns expressed by the John Howard Society regarding the under-representation of aboriginal youth among participants in alternative measures programs under the *Young Offenders Act* were noted earlier.

The Committee also heard from Carol Reikman, Executive Director of Saskatoon Community Mediation Services. She noted that the Victim Offender Mediation Program which they have operated for several years in Saskatoon needs to be refocused to better serve aboriginal offenders.

Reikman indicated that aboriginal offenders are under-represented among referrals made by the Crown to the program. She estimated that while 22% of first-time offenders in Saskatoon are aboriginal, only 5% of referrals are. She further noted that referral criteria which eliminate those with more than one charge may be partly to blame for this. As a result, she suggested that referral criteria may need to change, and that earlier involvement in assessing which cases are mediable might also be beneficial. As well, Reikman suggested that Saskatoon Community Mediation Services was interested and involved in expanding their service to deal with community mediation issues.

The Committee was provided with information on aboriginal community-based mediation/diversion/reconciliation programs operating or planned in other jurisdictions. The Aboriginal Legal Service of Toronto's Community Council Project, for example, has worked with the Toronto Crown Attorney's office and other parts of the justice system, Elders and community leaders to develop the parameters for a diversion project. It would involve a Community Council in "sentencing" certain aboriginal offenders. The Community Council proposes to start with crimes against property and victimless crimes such as prostitution. They recognize that "sentencing" is a difficult task, and thus wish to start with the least difficult cases. They note that a community response to crimes of violence must:

> not only take into account the needs of the offender, but also the reality of the fear and concern of the victim. At this point in time, the Council cannot call upon resources to address these very real concerns. As a result, it does not make sense for the Council to deal with crimes of violence at this time.[82]

The Committee also learned that a protocol has been developed between the Hollow Water First Nations community and Manitoba Justice to establish guidelines for the integration of a holistic healing, community-based approach into the criminal justice process. This initiative arose out of community concerns that sentences in sexual abuse cases were too lenient and often inappropriate. It involves a local assessment team recommending a sentencing approach to the Crown in sexual assault cases which may involve an aspect of community reconciliation.

Presenters repeatedly emphasized the need for a holistic approach when dealing with problems, along with the view that aboriginal offenders desire this type of programming. Mr. Kearney Healy, a Legal Aid Commission lawyer, emphasized this point in his submission when discussing his clients' approach to attending the St. Louis Alcohol Treatment Centre Program for those convicted of a second impaired driving offence. As he put it:

> The majority of my clients would virtually always rather go to a treatment centre for their problems so that they can have a chance to escape the cycle than to spend a shorter period in jail which they see as having only marginal effect on helping them to correct the problem that was the cause in the first place.

WE RECOMMEND THAT:

4.1 the federal and provincial governments, in consultation with Indian and Metis organizations, establish youth and adult mediation/diversion/reconciliation programs. Such programs should be culturally appropriate and embody a holistic approach to offender rehabilitation (that is, an approach sensitive to the spiritual, emotional, psychological, physical and material needs of offenders).

4.2 eligibility criteria for access to mediation/diversion programming be reviewed with an eye to encouraging greater aboriginal participation.

In order to empower aboriginal communities and reduce feelings of alienation, communities must be given an opportunity to become involved in, and take greater responsibility in community interaction with, the criminal justice system.

In his remarks to the Committee, Judge Fafard referred to the need for communities to take back responsibility in noting that:

> Some of us are being drawn to the conclusion that our communities are over-policed. Some of the property-related charges that are being brought to court ... were in the past resolved without the matter being reported to the police. Friends are reporting neighbours, fathers reporting sons, siblings reporting siblings, for broken windows and ski-doo joyriding. People have become far too dependent on the police for dispute resolution. Some people have abdicated the right to resolve disagreements among themselves.

WE RECOMMEND THAT:

4.3 subject to community support, community justice committees be established for adult aboriginal offenders to parallel the activities of youth justice committees. Committee responsibilities might include advising on pre-sentence reports and sentencing, providing crime prevention and public legal education programming, and administering alternative measures.

Changes in sentencing or remand practices to recognize community-based approaches cannot succeed without the full participation and support of the judiciary at all levels and Crown counsel.

A 1975 study of factors affecting judicial decision-making in Alberta concluded:

> **The data indicate that among judges an active concern for the maintenance of law and order is linked to a narrow conception of sentencing possibilities. This conception is predominantly based on legal definitions of offense seriousness. In contrast, judges less concerned about issues of law and order adopt a more diverse approach to sentencing.[54]**

As in the Hollow Water First Nations and Aboriginal Legal Services of Toronto approaches described above, all significant players in the criminal justice system must be involved in the development of community-based alternatives to ensure integration with the criminal justice system.

WE RECOMMEND THAT:

4.4 Saskatchewan Crown Counsel be encouraged to exercise greater flexibility and creativity regarding pre-trial detention and when speaking to sentence in cases involving aboriginal offenders in order to reduce the use of pre-trial detention and incarceration, and increase the use of culturally appropriate alternative measures.

4.5 the Saskatchewan judiciary be encouraged to exercise greater flexibility and creativity in remanding and sentencing aboriginal offenders in order to reduce the use of pre-trial detention and incarceration, and increase the use of culturally appropriate alternative measures.

In the Committee's meeting with women inmates and staff at the Pine Grove Correctional Centre the negative impact of the separation of aboriginal women and children caused by incarceration was emphasized. Sheila Whelan, speaking from her experience as Legal Aid counsel, suggested that incarcerated aboriginal women encounter tremendous displacement problems and emotional difficulty with separation, and, in many instances, the loss of their family and contact with the community. In addition, incarceration may lead to their children being in the temporary care of the state for very long periods of time.

WE RECOMMEND THAT:

4.6 the Saskatchewan judiciary be encouraged to order pre-sentence reports in all cases where the accused is an aboriginal mother with dependant children in order to encourage consideration of alternatives to incarceration, and, in those instances where incarceration is warranted, to allow an opportunity for appropriate child care arrangements to be made.

---

9. COURT SERVICES

(a) Access to Justice

Access to the court system for aboriginal people and communities, especially in the north, can be limited by a lack of appropriately trained and staffed interpreter services, a lack of familiarity with the criminal justice process and language, and discomfort experienced by witnesses, especially victims, in understanding and participating in the court process.

The problem of interpretation services was stressed in the Committee's consultations in the north. Judge Fafard noted that:

> In the North, we have frequent, almost daily need of interpreters in Cree and Dene. There are no trained interpreters and no program to train them. We end up plucking a person out of the audience who speaks both English and the Native Language in question more or less and he or she becomes an instant interpreter. There is no training or preparation or understanding of legal terminology. This is patently wrong.
>
> The message in this to the native people is that their languages are not to be taken seriously and are unworthy of respect. It suggests that these languages do not have the capacity of precise speech and so a loose translation by anyone will be acceptable. I know this is not so. Cree is just as precise as English or French, and in a few respects it is more precise. To deny the people the right to accurate interpretation is an insult, and the sooner that problem is addressed the better.

Judge Fafard gave examples where culturally inappropriate translation of legal terminology can cause significant difficulties. For example, in a case involving a son accused of assaulting his father, an interpreter was used as the father spoke no English. The interpreter was unable to come up with Cree words for accidental or intentional pushing. While Euro-Canadian language assumes that to push equals an intentional action, this is not true for Cree.

Judge Fafard further noted that interpretation services are needed not only for trial purposes, but to ensure that the judgment of the court can be made known to the community. It was empasized that any training or selection of interpreters would need to recognize that there are differences in dialect, even within Cree or Dene communities.

The Committee is aware of a training program for court interpreters provided by the Department of Justice for the Northwest Territories.[85] These courses provide students with information about the legal system and the operation of the courts so that they will have a basic understanding of the concepts and procedures which will be the subject of their interpretation. Each course includes terminology development work. This often involves consultation with Elders who have a good understanding of traditional applications of words in aboriginal languages. The program, initiated in 1988, consists of four two-week modules. The Northwest Territories is also working on providing consecutive interpretation for all parties to the court proceeding so that everyone hears the actual evidence and the

interpretation. As well, they are attempting to develop a simultaneous translation capacity for the court audience using multiple headsets so that the community can understand what is happening in the court.

The Committee commends the Public Legal Education Association of Saskatchewan for its development and distribution of legal information. A Legal Lifeskills Workshop introduced in 1986 has been delivered to over 35 aboriginal agencies. The objective of the workshop is to enable participants to act as skilled guides to the legal system for the benefit of others. However, more public legal education materials (written, video-tape or cassette) need to be made available to the broader aboriginal community and in aboriginal languages as appropriate.

Judge Moxley in his submission to the Committee noted the problems of witnesses as follows:

> **Witnesses and accused persons are left to find their way as far as 110 kilometres, where there is no public transportation and few have vehicles or the resources to take taxis.**

Problems in non-appearance of witnesses often lead to trials being adjourned and the inefficient use of court time. One community in the north seems to have alleviated this problem. In Southend, an aboriginal woman is employed by the Lac La Ronge Band to travel to pick up persons and transport them to and from court. Such a service may be warranted in other communities. Alternatively, some service to facilitate witnesses' understanding of the court process and to assist in solving transportation problems may be all that is required.

Interest in developing services to meet the needs of victims was expressed, especially with regard to victims of violence in cases of spousal and sexual assault. Services to assist victims to cope with the criminal investigation and criminal court process may be appropriate where there is community support.

Transportation difficulties confronting aboriginal accused were also noted. Such difficulties include having to travel significant distances to make a court appearance, or being released from custody far from home.

Finally, to facilitate aboriginal community involvement in the criminal justice system through community justice committees or otherwise, some practical operational support may be needed. This might include scheduling meetings of the committee, and assisting in the preparation of sentencing or other materials from the community to the judiciary or Crown.

WE RECOMMEND THAT:

5.1 a Community Justice Liaison program be established in communities with significant aboriginal populations, and in northern communities in particular, to provide liaison services between aboriginal communities and court services. Responsibilities could include:

- **providing interpreter services to the courts;**
- **conducting public legal education workshops;**

- **assisting witnesses to appear in court;**
- **providing services to victims; and**
- **facilitating community justice activities (e.g., support services to community justice committees).**

As referred to above, aboriginal people need to be provided with better access to materials to assist them in understanding and accessing the criminal justice system.

WE RECOMMEND THAT:

5.2 public legal education materials be developed to assist aboriginal people to better understand the criminal justice system in general, and court processes in particular. Such materials would include a listing of legal terminology in appropriate aboriginal languages.

(b) Indian Justices of the Peace

The Committee received a proposal from the Buffalo River Dene Nation and the Meadow Lake Tribal Council for an Indian Justice of the Peace pilot project for the nine First Nations of the Meadow Lake Tribal Council.

The proposal sets out the objectives of such a pilot project as including enforcing community rules/bylaws on liquor, traffic, firearms use, and other community order issues. They stated concerns regarding their current ability to enforce such rules due to low penalties, limited availability of prosecution resources, and lack of alternative sentences to fines and/or imprisonment.

With regard to bylaws they note:

> **First Nation laws are community initiated. In order for them to be effective and for the process to be respected, they should be enforced by the community. Without a practical, community-driven enforcement mechanism, First Nations are essentially powerless to effect any real order at the community level.**

Over time and as warranted, this Indian Justice of the Peace project would provide locally selected and appropriately trained justices of the peace with the authority and jurisdiction to:

- deal with summary conviction offences of First Nation laws effected pursuant to the *Indian Act*, with a right of appeal to a Judge of the Provincial Court of Saskatchewan;

- deal with guilty pleas on identified summary conviction offences occurring upon a Reserve or by a member of a First Nation arising from provincial or federal laws, with the right of appeal to a Judge of the Provincial Court of Saskatchewan;

- deal with assaults and similar offences occurring within a First Nation territory with a similar right of appeal.

It is proposed that justices of the peace be cross-appointed under section 107 of the *Indian Act* and the provincial *Justice of the Peace Act*. This is based on a perception that the commitment of both levels of government is required to adequately support such a program. The Committee recognizes this goal as desirable.

However, even in the absence of federal-provincial cross-appointment, the Committee encourages the provincial appointment of aboriginal justices of the peace. At present, 11 of 200 Saskatchewan presiding justices of the peace are aboriginal and the province is developing a comprehensive training program for justices of the peace.

The Committee supports these endeavours, and suggests that options for increasing the functions of aboriginal justices of the peace should be considered. In his presentation to the Committee, Judge Moxley suggested that:

> **It might be worthwhile for the Commission to consider whether locally based J.P.'s of aboriginal ancestry could singly or as a panel preside over summary conviction pleas and trials, thus giving the community a greater stake and involvement in the process.**

It may be that panels of justices of the peace would work best, at least until justices are comfortable with their duties. Provincial court judges might be able to assist initially as "clerks" to the panels. To avoid community conflicts and unnecessary stress, it might be prudent to ensure that justices of the peace do not sit in their home community. While such approaches deserve serious consideration, the use of aboriginal justices of the peace will depend on the level of community support for such a program, the ability to recruit people within the community to undertake such a responsibility, and the practical advantages to the criminal justice system of using justices of the peace in place of provincial court judges.

WE RECOMMEND THAT:

5.3 a 2-year pilot Indian Justice of the Peace Program be established for the 9 First Nations of the Meadow Lake Tribal Council.

5.4 consideration be given to making greater use of aboriginal justices of the peace, particularly in the north, to hear some types of matters such as bail applications, motor vehicle offences and minor criminal offences.

(c) Court Services Enhancements

While many cases dealt with in the Provincial Court involve aboriginal persons and communities, only a few court locations, such as Montreal Lake and Fond du Lac, are on-reserve. For justice to be seen to be done in Indian communities, matters involving the community should, to the extent possible, be dealt with in close proximity to it.

WE RECOMMEND THAT:

5.5 subject to community support, that the Provincial Court hold court sittings on-reserve, at least periodically, wherever suitable facilities are available and numbers warrant.

The Committee heard much concern about the rushed atmosphere in northern courts. This was noted in our Interim Report.

In the words of Robert McCann:

> **Sometimes a busy northern court docket seems like the operating room portrayed in the television series "MASH" where bedside manners are dispensed with in the interests of getting the job done. Clients certainly can be left with the impression that no one cares and that the individual is a thing and not a person.**

Some presentations stated that at least 1 and possibly 2 more judges were required in the North. The Committee wishes to see the communities take more responsibility for and ownership of criminal justice services, as opposed to expanding the present system. Therefore, we recommend starting with the implementation of a Community Justice Liaison program, greater use of aboriginal justices of the peace in the north, the enhancement of Legal Aid services, and the implementation of an aboriginal courtworker program before considering the need for additional full-time judges.

In our travels to the North and in conversations with various presenters, we were struck by the difficulties encountered in some court locations ensuring that the public has access to the proceedings — not only due to a lack of interpreter services but because of an inability to hear what is actually being said.

WE RECOMMEND THAT:

5.6 Saskatchewan Justice, in consultation with the Provincial Court of Saskatchewan, review the northern circuits of the court to:

- **identify measures to reduce time pressures experienced in northern court sittings and to improve opportunities for liaison between the court and northern communities; and**

- **ensure that each northern circuit point is equipped with proper sound amplification equipment as well as a space where accused persons and witnesses can consult privately with counsel.**

Aboriginal offenders in the north do not appear to have fair access to the full range of criminal justice options for Queen's Bench trial by judge alone or judge and jury. They, their families and witnesses may be required to travel considerable distance to Prince Albert or Melfort for a Queen's Bench trial. It was suggested that aboriginal offenders do not take full advantage of their option to elect trial by Queen's Bench judge or judge and jury because of this. Even where a jury trial occurs, there is a question as to whether the accused is being tried before a jury of his or her peers. The Committee notes that section 11(f) of the Canadian *Charter of Rights and Freedoms* provides the right to a trial by jury where the maximum penalty of imprisonment is for five years or more.

The Committee is aware that court facilities suitable for use by the Queen's Bench exist in La Ronge, and that at least one special sitting was arranged in past to accommodate a jury trial.

WE RECOMMEND THAT:

5.7 La Ronge be designated as a special northern circuit point of the Court of Queen's Bench for the purpose of hearing criminal trials as needed.

For some time, relief teams of judges, prosecutors, court clerks and Legal Aid lawyers have been sent to the North to perform "catch-up services" where backlog problems are being encountered. Generally, members are from southern communities and sometimes totally unfamiliar with the North. They are dropped into communities for a few hours and expected to do justice without even a short briefing session with members of the local community. The danger of inappropriate sentences is very real. Once community justice committees are established, the court relief team could be briefed by them prior to commencing court. However, at least in the short term, there is a need to ensure that some members of the relief team are familiar with local issues.

WE RECOMMEND THAT:

5.8 the 'relief teams' which periodically travel to northern circuits of the Provincial Court include at least two members familiar with the region and its peoples.

When the Committee attended court in Pelican Narrows, the Chairperson (who was also the relief judge that day) flew in with the clerk, Legal Aid lawyer and prosecutor from La Ronge. The court party was then picked up by an RCMP vehicle and driven to the court facility. This is the normal procedure in the North and places everyone in an awkward position. Given the high cost involved, we cannot recommend the judge and clerk fly in on a separate plane. However, the judge and clerk should not be transported to court in a police vehicle, but rather by a member of the community or by local taxi.

WE RECOMMEND THAT:

5.9 northern judges not be transported to court by the RCMP.

The Committee was pleased to learn that a conference on Race Relations for Provincial Court judges, in conjunction with the Western Judicial Education Centre and the College of Law, University of Saskatchewan, is planned for June, 1992, in Saskatoon. Two full days of the conference are to be given over to aboriginal cross cultural training. This will involve approximately 100 judges from across Western Canada.

While such an initiative clearly indicates an increasing appreciation for the need to ensure that the judiciary is culturally sensitive, training must be on-going and involve all parts of the criminal justice system to have the broadest effect.

WE RECOMMEND THAT:

5.10 cross cultural and race relations sensitivity training be provided to all Saskatchewan judges, crown counsel, court officials and court support staff.

5.11 such training be provided to all new employees and on an ongoing basis in-service, and include a strong aboriginal component to familiarize participants with the history and contemporary situation of Saskatchewan Indian and Metis peoples.

5.12 court administrators be trained to identify signs of racial intolerance and remedial training programs be provided to any crown counsel, court officials and court support staff exhibiting racist attitudes and behaviours.

5.13 where remedial training has not had its desired effect, appropriate disciplinary action should be taken.

In criminal proceedings the *Canada Evidence Act* requires that evidence be tendered before the court on oath or on affirmation. No particular form of oath is required as long as the witness takes the oath in a form that binds his/her conscience. If the person's faith has adopted a particular form of oath, that form must be adopted, but if there is not a particular form, any form binding on the witness may be used. Therefore, concerns expressed to the Committee about the ability of aboriginal persons to testify based on their spiritual beliefs, rather than on the Bible or affirmation, can be met if those involved in the proceedings are aware of the witness's preference. This may require those involved in court proceedings inquiring into what form of oath an aboriginal witness is most comfortable with.

WE RECOMMEND THAT:

5.14 efforts be made by the judiciary and officers of the court to facilitate the giving of evidence in court by aboriginal persons in a traditional way, for example, by a sweet grass ceremony.

---

10. CORRECTIONS

(a) Introduction

Young offender programs are operated by the provincial Department of Social Services as a component of that Department's focus on families. Offenders 18 and over in custody while awaiting trial and those serving sentences of less than two years are the responsibility of Saskatchewan Justice. Those sentenced to more than two years are the responsibility of the federal government and the Correctional Service of Canada (CSC) and the National Parole Board in particular.

Approximately 12,000 remanded and sentenced offenders are admitted and discharged from provincial correctional centres each year while approximately 210 are sentenced to federal facilities.[86]

Approximately 20,000 individuals worked off fines through the provincial Fine Option Program in 1991, while about 4,400 individuals served sentences in the community Probation, Community Service Order and Restitution Programs. While most people think of incarceration when corrections programs are discussed, it should be noted that, on any given day, for every inmate serving a sentence in custody there are approximately 4 offenders serving a court sentence within the community.[87]

Approximately 68 percent of all provincially-incarcerated inmates are aboriginal, as are about 60 percent of those serving community sanctions. Further, 44 percent of inmates in the Saskatchewan Penitentiary are aboriginal.[88]

In addition to receiving comments from community groups, the Committee met with inmates in the Saskatchewan Penitentiary located at Prince Albert and provincial correctional centres located at Regina, Saskatoon and Prince Albert. Most presentations were made by aboriginal inmates. In addition, inmates were encouraged, and some availed themselves of the opportunity, to submit written briefs. The Committee was particularly impressed with the quality of, and range of concerns expressed in, many of the presentations. Inmates spoke candidly and openly about their concerns, not only in corrections, but other justice areas as well. They showed particular concern for aboriginal youth, as the following comment indicates:

> **Because of the sad truth that I wasted a productive life up till now, I hope that I have something to offer our children, so as they can be proud of their heritage and who they are.**

Other comments focused on the darker side of aboriginal offenders' experiences in correctional centres.

> **I would just come out of jail madder than hell — I'd come out fighting and end up right back in jail.**
>
> **Jail sentences do nothing except breed hatred for whites.**
>
> **Nothing is corrected in corrections.**

> **More than anything I know the slow and painful death that prison and this life inflicts on one. As time goes by you slowly die from the inside out, but as I write this it doesn't have to be this way.**

(b) Cross Cultural and Race Relations Sensitivity Training

Given the high percentage of aboriginal inmates in all correctional facilities, the need for more effective cross cultural and race relations sensitivity training was identified. While all staff receive cross cultural training on commencing employment, there is no comprehensive, ongoing program to teach staff about aboriginal culture, spirituality and political aspirations. Indeed, the Committee heard from two former Pine Grove staff regarding allegations of racist behaviour directed toward aboriginal staff by non-aboriginal co-workers.

As well, shortly after the Committee's visit to the Regina Correctional Centre, two aboriginal ex-staff members called a news conference to express concerns about racism toward aboriginal staff at that centre. Both individuals indicated they were forced to quit their jobs because they could no longer tolerate racism directed toward them by their co-workers.

Aboriginal inmates in some correctional facilities alleged that systemic racism prevented their proportional participation in parole and other conditional release programs. An analysis of the data regarding their participation in such programs indicate that:

- Aboriginal grant rates of parole were somewhat lower than for non-aboriginal inmates, but the grant rate was increasing relative to non-aboriginal inmates.

- Participation in provincial "early release" programs was on par with that of non-aboriginal inmates.[89]

Nevertheless, the perception of systemic racism persists.

Because of the importance of confronting racism in all areas of the criminal justice system, a separate discussion of racism is provided in the concluding section of this report.

WE RECOMMEND THAT:

6.1 cross cultural and race relations sensitivity training be provided to all provincial and federal corrections staff.

6.2 such training be provided to all new employees and on an ongoing basis in-service, and include a strong aboriginal component to familiarize participants with the history and contemporary situation of Saskatchewan Indian and Metis peoples.

6.3 special emphasis be placed on the understanding and application of holistic healing models—those which focus on the spiritual, emotional, psychological, physical and material needs of inmates.

6.4 correctional authorities, in consultation with Indian and Metis organizations, develop an instrument to assess the application of cross cultural skills to corrections work; and that employee performance appraisals include an evaluation of a corrections worker's application of cross cultural skills in day-to-day interaction with aboriginal co-workers and inmates.

6.5 corrections administrators be trained to identify signs of racial intolerance and remedial training programs be provided to any staff exhibiting racist attitudes and behaviours.

6.6 where remedial training has not had its desired effect, appropriate disciplinary action should be taken.

6.7 community corrections staff receive local orientations where appropriate.

(c) Female Offender Issues

The profile of female compared to male offenders in provincial correctional facilities indicates that females are:

- More heavily represented in the probation caseloads than in prisons (20 percent of all participants compared with eight percent of those incarcerated).
- Are more likely to be aboriginal (85 versus 65 percent).
- Receive shorter sentences for less violent offences.
- Are further away from their families by virtue of the availability of three female facilities throughout Saskatchewan compared with 18 for male prisoners.[90]

The Committee was provided with a copy of a 1990 letter from the Pine Grove Inmate Committee to a local community organization in which the following were identified as contributing to aboriginal women ending up in Pine Grove:

- Poverty
- Lack of education
- Not enough substance abuse treatment centres and counselling outlets
- No proper representation during the court proceedings
- A subtle prejudice already built into the community as well as the courts
- Lack of half-way houses one may attend upon release.[91]

The Committee's visit to Pine Grove Correctional Centre occurred shortly after a federal government announcement that the only facility in Canada for federally-sentenced female offenders (Kingston) would be closed and replaced by five regional facilities including an aboriginal healing lodge. While there was widespread support for this initiative, the Committee heard expressions of concern about services to federally-sentenced women pending the four-year time frame required to develop the new federal facilities.

WE RECOMMEND THAT:

6.8 aboriginal federally-sentenced women not serve their sentences at the Kingston Prison for Women, and, pending the opening of a facility in Western Canada, those serving their sentences at Saskatchewan Penitentiary have access to a full range of culturally sensitive and gender appropriate programming.

The Committee heard of the great importance female inmates attach to extended visits with their families. We were impressed with the facilities at the apartment-like visiting unit. However, inmates complained that the waiting period to qualify to use the unit was too long (41 days). It need not be the same as for male inmates, they suggested, since female inmates were more likely to be single parents and in need of the family visiting unit to maintain a positive relationship with their children.

WE RECOMMEND THAT:

6.9 the Pine Grove Correctional Centre review its policies on access to the facility's family visitation unit with an eye to reducing the length of time that inmates must wait before they can apply to use it.

The Committee heard inmate requests to maintain a broader array of programs at Pine Grove to meet the needs of female offenders. While most inmates serve very short sentences (average 35 days), those serving longer sentences indicated the need for programs which better equip them for employment upon release.

WE RECOMMEND THAT:

6.10 the Pine Grove Correctional Centre implement vocational, educational and upgrading programs which are more appropriate to aboriginal women's career needs.

The Committee understands that an investigation into allegations of racism at Pine Grove is underway as a result of concerns brought to our attention in November, 1991.

WE RECOMMEND THAT:

6.11 appropriate action be taken to implement recommendations flowing from an investigation into allegations of racism at Pine Grove Correctional Centre initiated in response to concerns brought to the attention of the Review Committee in November, 1991, by former Pine Grove staff.

(d) Employment Equity

Given that the majority of offenders incarcerated or dealt with under community sanctions are aboriginal, employment equity is required to deal with concerns about cultural sensitivity towards, positive role models for, and the alienation concerns of, aboriginal offenders.

As stated by Wayne Stonechild speaking on behalf of inmates at the Regina Provincial Correctional Centre:

> **I agree that, yes, there is a need for justice, but the present-day system of dealing with the violence of poverty is totally wrong. Jailing us in an alien culture is definitely not the answer. If there must be jails for this, then let there be native employees.**

The need to increase the aboriginal component of employees has been recognized by federal and provincial correctional authorities. The Corrections Division of Saskatchewan Justice has been proactively recruiting aboriginal staff. During the past three years, aboriginal recruits account for 16 to 25% of all new employees (12 of 70 or 17% in 1989/90; 15 of 95 or 16% in 1990/91; and 5 of 20 or 25% to September, 1991).

Of the approximately 860 provincial Corrections staff, both full and part-time, 92 or 11% are aboriginal. The highest percentage work in the Northern Corrections program—22 of 30 or 70%. As well, 16 of 120 or 13% work in Community Corrections and 54 of 740 or 7% work in correctional centres.

In order to allow more aboriginal individuals an opportunity to experience correctional work, the Division will recruit three to five aboriginal summer students to work at each major correctional centre commencing in 1992. Further, in terms of filling vacant or new positions, Corrections has a policy of interviewing all aboriginal applicants who meet minimum qualifications.

Similarly, the Correctional Service of Canada in Saskatchewan does not employ aboriginal staff proportionate to the number of aboriginal inmates. The Warden of the Saskatchewan Penitentiary, Jim O'Sullivan, acknowledged that the penitentiary lacked sufficient numbers of aboriginal personnel.

The Correctional Service of Canada advises us that the Prairie Region, which includes Saskatchewan, employs more than half of all the aboriginal staff in the Service. The qualifications and assessment tools currently used to recruit correctional workers and case management officers are being reviewed to assess their impact on aboriginal applicants. The CSC is also considering establishing a two-year interchange assignment with an individual from an aboriginal organization to work as a resource in outreach work in support of recruiting units in the Region.

Relating specifically to Saskatchewan, three of 17 Parole Officers, 17%, are aboriginal. In total, 42 of 807 CSC staff in Saskatchewan, 5%, are aboriginal. These figures exclude aboriginal persons who provide native liaison (five persons) and Elder services (five persons) on a contract basis.

WE RECOMMEND THAT:

6.12 Saskatchewan Corrections and the Correctional Service of Canada (CSC), in consultation with Indian and Metis organizations, immediately implement employment equity programs to achieve greater aboriginal participation at all levels. A minimum target would be the percentage of aboriginal people in Saskatchewan; the optimum, a percentage of aboriginal staff equal to the percentage of aboriginal offenders served.

6.13 provincial and federal Corrections develop programs to assist aboriginal staff to handle the pressures and stresses associated with their work. This could include peer support, employee assistance, counselling and mentoring.

(e) Programming

Both federal and provincial inmates identified a lack of pre- and post-release planning services to assist their reintegration into the community. As Michelle Schriml, a community volunteer at the Prince Albert Correctional Centre, observed:

> Currently, the Community Corrections concept is set up to fail because of inadequate preparation for inmates prior to release. A community-based liaison officer is what is needed. The Corrections staff do not have the time to work one-on-one with the inmates. In some instances, they too are unfamiliar with community resources. Perhaps this should be included as part of their training.
>
> The success of community-based Corrections, then, depends on the preparation for release.

Federal inmates were more likely to receive some assistance since their releases involve contact with a Parole Officer while on full parole or mandatory supervision. However, provincial offenders, whose numbers are far greater, are less apt to be under the guidance of a Parole Officer upon release. They identified a lack of community resources to aid in their re-establishment within the community. As well, inmates requested increased assistance from the FSIN and MSS in pre- and post-release planning.

The Correctional Service of Canada presently employs two community development officers to do liaison work with aboriginal communities in the Prairie Region. There has been one community development officer active in Saskatchewan for a year, and approximately 65% of his time is related to work with aboriginal offenders. Such an outreach program is a positive step. However, much more work needs to be done in this area.

WE RECOMMEND THAT:

6.14 provincial and federal Corrections, in collaboration with Indian and Metis communities, implement programming to enhance access to pre- and post-release planning services with respect to employment, housing, education, counselling and other support services. Wherever possible, such services should be delivered by a network of local aboriginal service providers. To this end, provincial and federal Corrections officials should meet with representatives of aboriginal communities on a regular basis to exchange views and identify potential community resources to foster offender reintegration.

The Committee frequently heard inmate concerns that programming was insufficient and inconsistent. To quote John Mitchell, Chairperson of the Inmate Committee at the Prince Albert Correctional Centre:

> Somewhere, we have to get the message to the people that there are alternatives in dealing with their problems. I think the course, Breaking Barriers, is just the kind of program we need in here. The Literacy Program that we have is, in my opinion, a great program, as people are getting the help that is essential in society today. A life skills program in itself would be a benefit to people. What we also need is a liaison from manpower native outreach – just different support groups to come in and give inmates an alternative lifestyle. I think it is imperative that society, or the people of Canada be a part of this so they, too, can find a solution. Society says put us in jail when we break the law, but it's society complaining of, "Why should we pay for their food and shelter." So, let's have a consensus on bringing inmates back into society and keeping them there. I may be stepping out of bounds on some things, so I don't know if this is a good idea or not, but a group therapy program with a qualified therapist might be a good program.

As the following quotation from the Saskatchewan Penitentiary Inmate Welfare Committee demonstrates, there was a desire for more programming in the areas of spouse battering and family violence, anger management and sexual, physical and substance abuse counselling:

> **We are currently involved in planning for a Native Family Program through which we may address the home environment origins of Native needs. Parental alcohol abuse, family violence and other conditions of many Native youths are often heavily contributing factors to the incarceration of these inmates. Therefore, our hope and struggle towards strength for the future will include investigating and understanding the past. This is a short-term goal from which we hope to see more immediate results than some of our long-term goals such as a Half-Way House oriented towards Native specific needs. Again, we hold certainty that these endeavors are, with the help of our CSC and the local community, objectives we will some day see materialize.**

We were repeatedly told of the importance of spiritual programming and the necessity for all programs to be culturally appropriate for aboriginal people. The following comment was made in a written brief sent to the Committee by an inmate at the Oskana Centre half-way house in Regina:

> **I feel sad for the native population that's so high in the Saskatchewan Penitentiary and jails throughout Saskatchewan, because there just isn't enough programs available for the native people to participate in. ...The things I would like to see happening in the system is more programs and more traditional ways and native spirituality for native inmates, so they can learn who they really are.**

Given the fact that the majority of the inmates in provincial correctional centres, and a significant minority of those in federal facilities, are aboriginal, it is imperative that curriculum and programs reflect this reality. As such, programs must be rooted in, and informed by, aboriginal culture and values.

WE RECOMMEND THAT:

6.15 federal and provincial corrections services review all programming (e.g., life skills, parenting, battering and family violence, anger management, money management and budgeting, educational and vocational programs and sexual, physical and substance abuse counselling) to ensure that it is culturally sensitive, gender appropriate and accessible.

The Committee heard concerns from inmates in the Regina Correctional Centre that many were residents of northern communities but sentenced to the Regina Correctional Centre because the Prince Albert and Saskatoon facilities were full. Placement in the Regina Correctional Centre resulted in a virtual absence of visits from family, and made discharge planning more difficult. This concern was also raised by members of the aboriginal community during our public hearings.

WE RECOMMEND THAT:

6.16 provincial corrections ensure that, to the maximum extent possible, inmates serve their sentences in a correctional facility nearest to their home.

A number of inmates, particularly female inmates, articulated the need for immediate access to psychological and psychiatric services when they were experiencing personal problems. They also requested greater access to professional counselling on a long-term basis. Similarly, all inmates stressed the need for ready availability of spiritual counselling by aboriginal Elders. The Committee is aware that, as part of a Correctional Service of Canada initiative, an Elder psychologist will begin doing psychological assessments for aboriginal offenders in Saskatchewan this year and next. We believe that such an initiative should continue over the long term.

WE RECOMMEND THAT:

6.17 federal and provincial Corrections services ensure that inmates have reasonable access to psychological/psychiatric services and/or spiritual advice to assist with immediate problems, and regular access to professional counselling services to address longer-term needs.

6.18 psychological tests used by federal Corrections in the assessment of aboriginal offenders be reviewed to ensure that they are not culturally biased against aboriginal inmates.

While it was generally recognized by all inmate spokespersons that financial resources for government programs, including correctional ones, were in short supply, inmates at the Saskatchewan Penitentiary expressed concern for the maintenance of academic programming, including university courses. Also, there was strong support for the continuation and expansion of programs in native studies.

A frequent complaint of both federal and provincial inmates was that releasing authorities did not give as much "credit" for participation in specialized aboriginal programming, spiritual programming in particular, as they did for participation in more well-known programs such as alcohol education and vocational training.

A Native Studies curriculum is presently being piloted in Stony Mountain Penitentiary. We understand that the program uses videos as well as the participation of Elders and members of the aboriginal community, and that inmate evaluations of the program are good.

As well, Wicihitowin, a Prince Albert community support group, noted that:

> **An attempt by PACC and Wicihitowin to help the aboriginal inmate identify with their culture is currently underway. This is a Native Studies Workshop dealing with the history of aboriginal people in North America, traditional aboriginal culture and spirituality, aboriginal political organizations and economic development for aboriginal people. This program is currently on a volunteer basis for instructors. Again, funding is the only drawback to this program, as it is supported by the inmate population and PACC.**

It is important that such programs be offered in all penitentiaries and correctional centres.

WE RECOMMEND THAT:

6.19 Corrections Canada's current emphasis on accredited education, upgrading and modular training, especially in Native Studies, continue.

6.20 provincial Corrections work with Corrections Canada to adopt/adapt similar modular programming, especially in Native Studies.

(f) Treaty Rights Recognition

Several inmates expressed concern about an apparent lack of recognition of Treaty Rights when requesting medical, optical and dental treatment, and access to educational opportunities. They also expressed concern that they were required to pay provincial sales tax on items purchased from prison canteens.

WE RECOMMEND THAT:

6.21 the Federation of Saskatchewan Indian Nations meet with federal and provincial Corrections to review the application of existing Treaty Rights as they apply to Treaty Indian inmates.

(g) Recognition of Elders

Inmates expressed the need for greater access to aboriginal spiritual advisors within provincial correctional centres. As Michael Tarzan, speaking on behalf of the Prince Albert Correctional Centre Native Fellowship, remarked:

> **We have access to a Native Elder one day a week who is available for counselling on an individual basis. We feel that there is a need to expand the Elder program so that inmates can have access to counselling in times of crisis. Inmates with long-term needs for counselling cannot have their needs fully met at present. We recommend that funding to expand the Elder program be provided by the Department of Justice as soon as possible.**

Steven Badger, an inmate at the Saskatoon Correctional Centre conveyed this need in the following terms:

> **The Elders are the ones to lay down our personal laws and give us knowledge to rebuild our broken spirit. No matter what our conditions are, we must always turn to our Elders.**
>
> **With this issue, we, as inmates, would like to see Elders' workshops within the institution. The Elders will come in and teach us our ways, put on activities, Pow Wows, Round Dances, Sweats, and Pipe Ceremonies to rebuild our broken spirit.**

There were complaints about the lack of sensitivity by staff when admitting aboriginal Elders and their religious objects into the centres. The importance of Elders in the healing process cannot be over-emphasized. According to many inmates, their only hope for a future lies with their Elders and a closeness to their traditional culture. As Brian Campbell remarked:

> **I cannot put into words the importance of [the Elders'] role in the future of our children, as well as the adult offender. They are our circle of life.**

WE RECOMMEND THAT:

6.22 there be greater access to Aboriginal Elders and Spiritual Advisors; and that they be appropriately remunerated for their services.

6.23 Aboriginal Elders and Spiritual Advisors be accorded the same status, freedom and independence within correctional institutions as Christian and other religious service providers.

6.24 provincial Corrections, in consultation with Indian and Metis organizations, develop clearance procedures which are respectful of the sacred nature of religious objects used by Elders and Spiritual Advisors.

(h) Access to Parole

Several inmates expressed concern over the insufficient recognition by the Parole Board of participation in aboriginal spiritual programming. The following comment from Wicihitowin expresses this sentiment well:

> **It seems futile to implement aboriginal programs when the Parole Board does not recognize aboriginal programming as self-improvement.**

Inmates expressed a strong desire to see more aboriginal members on the Parole Board. At present, just one of eight full-time Parole Board members in the Prairie Region is aboriginal and he is from Manitoba. There are normally between 14 and 18 part-time Parole Board members in the Prairie Region. Presently, five are aboriginal. However, none reside in Saskatchewan. The Committee is concerned about the number of aboriginal members on the Parole Board and the absence of Saskatchewan aboriginal Board members in particular.

On a more positive note, progress has been made by the Parole Board in reaching out to aboriginal communities and agencies. There seems to be a willingness to listen to, and to work with, aboriginal communities to assist those caught up in the justice system. Examples of the Parole Board's efforts in this regard include:

(1) greater involvement of Elders in parole hearings;

(2) a May, 1992, workshop involving Elders, Parole Board members and staff; and

(3) the Intensive Parole Supervision Program, presently operating in Regina, which provides services to a high-risk/high-need offender group. We understand that the program has been of particular assistance to aboriginal offenders on parole.

However, the needs of aboriginal offenders are just beginning to be met and considerably more work lies ahead.

WE RECOMMEND THAT:

6.25 the National Parole Board re-affirm its commitment to accord participation in aboriginal spiritual programming the same weight in parole decision-making as participation in Christian and other religious programming.

6.26 the composition of the Board and staff of the Prairie Region of the National Parole Board reflect the fact that aboriginal inmates comprise a significant portion of federally and provincially sentenced inmates serving their sentence in Saskatchewan.

6.27 the National Parole Board in the Prairie Region facilitate communication between the Board and aboriginal communities to enhance its ability to identify culturally appropriate means of conducting parole hearings and the application of parole conditions for aboriginal offenders.

On numerous occasions, the issue of gating was raised by aboriginal inmates in their presentations to the Committee. Gating may be described as keeping federally-sentenced offenders in jail past their normal release date. A law enacted in 1986 requires the Parole Board to review the potential release of offenders convicted of specified violent offences. Should the Board feel it is required for the protection of society, specific offenders may be required to serve their period of remission (up to one-third of the total sentence length) in custody.

The following comment captures the feelings of many aboriginal inmates on the issue of gating:

> When I was at the penitentiary the past two years, I saw so many native inmates being gated and are forced or have no choice but to finish their sentences till the expiry dates...When they do eventually get released on their expiry dates, they have so much hate and bitterness toward the system and, in most cases, the anger is taken out on some innocent person. I'm sorry to say but that's the way I see it and it happens all the time.

WE RECOMMEND THAT:

6.28 the policies and practices revolving around the detention of federally-sentenced offenders beyond their normal release date (gating) be reviewed to ensure that they are not culturally biased against aboriginal persons.

11. OVERARCHING CONCERNS

(a) Introduction

The Committee identified a number of overarching concerns which impact upon the criminal justice system in our Interim Report. Some of these concerns — employment equity, community legal education and holistic approaches to services — have been dealt with in some detail in our recommendations and need no further comment. However, other concerns — racism, the importance of cross cultural training, family violence, and an implementation mechanism for our recommendations — warrant further discussion.

The Committee feels compelled to once more stress that unless dramatic changes are introduced to bring about significant improvement in the social and economic circumstances of Saskatchewan aboriginal people, little will be accomplished by the recommendations contained in this report. The criminal justice system in Saskatchewan is ill-equipped to address fundamental social problems affecting aboriginal people in the areas of poverty, employment, health, education and loss of cultural identity. This reality must be kept in mind as implementation of our recommendations gets underway.

(b) Racism

A submission by Theresa Holizki, Q.C., on behalf of the Saskatchewan Human Rights Commission, provides an illuminating discussion of the dynamics of racism. The Commission defines racism in the following terms:

> Technically speaking, racism is a combination of *stereotyping, prejudice and discrimination* that makes some races believe they are superior to all other races. It's usually, but not exclusively, practiced by groups with social, economic or political power.
>
> Specifically, a *stereotype* is an image or generalization that defines and characterizes a group solely on its behaviour or on the actions of certain members of the group....
>
> *Prejudice* is an attitude or thought that's a pre-judgment. Often negative, prejudice is based on stereotypes formed with incomplete or inaccurate information....
>
> *Discrimination* is the action we take against others in reaction to our prejudice. Discrimination usually humiliates, belittles or puts someone at a disadvantage.

Although probably the most recognized form of racism is overt or individual racism (racial discrimination which comes from a conscious and personal prejudice), the more disturbing form of discrimination is systemic discrimination. As the Commission states:

> this type of racism (systemic discrimination) probably results in the worst kinds of discrimination because it's often unintentional or built right into the system, and it is particularly hard to eliminate.

The Commission further states that:

> **We use systemic discrimination to describe a social, political and economic system that perpetuates traditionally "accepted" inequities. Even when everyone is treated equally, some groups still end up with fewer *benefits* than others.**

Ms. Holizki argues that the impact of systemic discrimination based on race against aboriginal peoples is "overwhelming." Certainly, concerns were expressed to the Committee that aboriginal people are being denied access to jobs within the justice system (e.g., youth services, probation, legal aid and corrections) because they are unable to meet the current job qualification minimum. We were told that such standards need to be more flexible and give greater emphasis to other special abilities and life skills that aboriginal applicants may have.

Another concern raised in presentations centered around the relationship between racism and power. Some comments we heard suggest that many aboriginal people feel that some non-aboriginal people may actually fear their "empowerment".

The following quotation, taken from a recent article in the *Saskatchewan Law Review* by Bruce Wildsmith, is instructive on this point:

> **Racism, in the context of majority-minority relations, is a political tool, wielded by the dominant ethnic group to justify the status quo and rationalize the disabilities to which the minority group is subject. It is clear that the concept of racism, in its most inclusive definition, refers not only to an ideology which proclaims the superiority of one ethnic group over another, but also to actions on the part of one ethnic group which have disadvantageous effects upon another. Thus, within an ethnically stratified society, racism implies the idea of differential power, utilized by the dominant or majority ethnic group(s) to effectively prevent members of ethnic minorities from gaining access to power, privilege and prestige [the latter attribution being the three fundamental dimensions of evaluation for ranking within all systems of social stratification].**
>
> **A racist belief or doctrine, essentially represents a form of prejudice; a racist act or practice represents a form of discrimination.**[4]

It is of course difficult, if not impossible, to define racism, let alone combat it. We also recognize that

> **while most people today would deny holding a belief in racial superiority, some will still act in a way that causes or perpetuates, perhaps inadvertently, adverse effects on one race more than others. This ought to be regarded as racist, even if the mind does not correspond with the action.**[5]

While drafting our recommendations, the Committee was very cognizant of the pervasive aspects of racism throughout our social, economic and political systems. Of particular concern is the fact that aboriginal people are the ones most likely to be on the receiving end of racism. It should come as no surprise, therefore, that almost 70% of race-related complaints reported to the Saskatchewan Human Rights Commission in 1991 came from aboriginal people. That is nearly 10% more than in 1990. As a result, we have tried to formulate recommendations that,

within the limits of our mandate and the limited context of the criminal justice system, might contribute to the continuing fight against racism in our province.

The Human Rights Commission paints a grim picture if we fail to confront the issue of racism on an immediate basis:

> **Racism's power to shape and determine the make-up and direction of Canada's social, economic and political systems must end. If racism is not stopped, the kind of built-in, sometimes inadvertent discrimination that perpetuates historical patterns of disadvantage and injustice -- especially for aboriginal peoples — will have serious consequences for every Canadian.**

(c) Cross cultural and Race Relations Sensitivity Training

The importance of cross cultural and race relations sensitivity training at all levels of the criminal justice system cannot be over-emphasized. This became clear to us early in the consultation process, and was conveyed in our Interim Report. We do not want any misunderstanding. When we speak of cross cultural training we do not mean a day or two of classroom lectures during an employee's initial job training followed by occasional "workshops" in later years.

As stated in our recommendations, and repeated under each priority area, we envision cross cultural training to be ongoing throughout the service of an employee; and include a strong aboriginal component to familiarize participants with both the history and the contemporary situation of Saskatchewan Indian and Metis peoples.

Also, cross cultural and race relations training must include an evaluation component to determine whether the training has had an impact.

We have further proposed that all administrators in the criminal justice system be trained to identify signs of racial intolerance, and that remedial training programs be provided to any person exhibiting racist attitudes and behaviours. Disciplinary action is to be taken as a final consequence where remedial training has been ineffective.

We acknowledge that specific criteria for delivering cross cultural training will have to be determined, as well as an evaluation standard that will be consistent throughout the justice system. Decisions regarding who will deliver the training, how and where it will be delivered and the specific content and the goals of the training program must be worked out through consultation with Indian and Metis organizations.

We have already stated that one of the goals which we all must pursue is the elimination of all forms of racism from the criminal justice system. We intend our recommendations in regard to cross cultural training to be an important step towards this goal.

WE RECOMMEND THAT:

7.1 Indian and Metis organizations and federal and provincial government departments jointly develop delivery standards and evaluation criteria for cross cultural training.

(d) Family Violence

Nationally, estimates indicate that one in every ten women in Canada (one million) is abused by her partner each year.[94] As well, a report by the RCMP on assaults and homicides recorded in Saskatchewan from 1985-1988 found that 17-20% were spousal.[95]

Family violence in the aboriginal community may present an even more oppressive picture. *Breaking Free — A Proposal for Change to Aboriginal Family Violence*, conducted by the Ontario Native Women's Association, concluded that the incidence of family violence in aboriginal families was 80% (8 in 10 vs. the 1 in 10 in non-aboriginal families).[96] This estimate included emotional, physical, psychological and sexual abuse.

As the Manitoba Aboriginal Justice Inquiry observed:

> **The presentations of Aboriginal women were blunt and direct. Violence and abuse in Aboriginal communities has reached epidemic proportions.[97]**

The Inquiry report went on to deal specifically with aboriginal leadership and their need to take responsibility to deal with family violence. At page 485 of the report they state:

> **The unwillingness of chiefs and councils to address the plight of women and children suffering abuse at the hands of husbands and fathers is quite alarming. We are concerned enough about it to state that we believe that the failure of Aboriginal government leaders to deal at all with the problem of domestic abuse is unconscionable.[98]**

They cite a number of sources on the frequency with which abuse occurs before assistance is sought. They note:

> **The Thompson Crisis Centre stated that, generally, women are abused at least 20 times before seeking help. A March 1991 study by the Manitoba Association of Women and the Law found that the statistics of a 1980 federal study, *Wife Battering in Canada: a Vicious Circle*, still held: women endure anywhere from 11 to 39 episodes of abuse before seeking help, and then they seek help more often from a shelter than from police. The Manitoba government Family Disputes Services branch says that abuse occurs at least 35 times before any outside assistance is sought.[99]**

The Aboriginal Women's Council of Saskatchewan spoke forcefuly of the need to respond to family violence in aboriginal communities, as did a number of other presenters.

A Prince Albert agency, Iskwew/Women Helping Women, stressed that:

> **Spousal abuse is a societal problem, and for long term results must be dealt with from this perspective. The victims of spousal abuse are not only the abused women, but the perpetrators in need of rehabilitation and the children who are our future.**

Iskwew outlined their approach to dealing with this complex problem as follows:

> **We attempt to intervene in the cycle of abuse, and to offer ways for our clients to break the cycle, and to stop the multigenerational pattern of abuse. Our goal is to encourage self-determination of the individual through positive family interaction, and the healing and growth of all individual family members.**

A variety of proposals were presented by The Aboriginal Women's Council, some of which have been touched upon elsewhere in the report. The Council also presented the Committee with material on the Family Violence Court operating in Winnipeg and, we understand, now being expanded to Brandon. The court is designed to hear spousal assault, child sexual assault, and elder assault cases. The court was prompted by concerns about court backlog, the need to act expeditiously in these cases, and the need for specialization in the area of family dynamics. Early reports would seem to show that more spousal abuse situations are being reported, and that more serious dispositions, either on remand or at sentencing, are being delivered.

WE RECOMMEND THAT:

8.1 Saskatchewan Justice, in consultation with the judiciary and representatives of both the aboriginal and non-aboriginal communities, evaluate the need for family violence courts in the Saskatchewan context.

To effectively respond to family violence, especially in times of fiscal restraint, individuals, communities, agencies and governments should be encouraged to work together, to learn from each other and to avoid duplication of services.

Family violence may be detected by neighbours, friends, doctors, teachers, religious leaders, crisis services or others. An effective response may require the intervention of police, the courts, counsellors, health professionals, child care authorities and others. To reduce the trauma and confusion for the family, to ensure appropriate communication and referral, and to build community awareness of the problem and of available resources, co-ordination of activities should be encouraged. Such co-ordination may take the form of formalized protocols to guide interagency contact, the creation of local information-sharing networks, or otherwise.

WE RECOMMEND THAT:

8.2 the provincial and federal governments support the development of protocols and networks to assist in educating and co-ordinating the work of agencies dealing with family violence in the aboriginal community.

(e) Implementation Mechanisms

In our Interim Report we noted that some form of ongoing consultation process would be needed to promote discussion of aboriginal justice issues and monitor the implementation of the Committee's recommendations. We also noted that this raised a fundamental question as to the level of interest or readiness of aboriginal communities to participate in or accommodate change in the way that the criminal justice system interacts with aboriginal people.

The Committee is aware that while this review was underway, the FSIN and the provincial and federal governments continued their parallel efforts to deal with aboriginal justice concerns. For example, the FSIN in consultation with First Nations of Saskatchewan established a clear set of plans and goals with respect to the adoption of an Indian controlled justice system. Their Strategic Plan is included in Appendix 5.

It is the Committee's expectation that ongoing development and monitoring of our recommendations will be folded into consultations occurring in this parallel process.

Specifically, we understand that the potential for holding a Saskatchewan Aborginal Justice conference in March or April, 1992, is now being discussed by the FSIN, the Metis Society, Justice Canada and Saskatchewan Justice. The recommendations and contents of this report may become part of the focus for such a conference.

12. SUMMARY OF RECOMMENDATIONS

WE RECOMMEND THAT:

0.1 in consultation with Indian and Metis organizations, federal and provincial government departments design and implement data collection systems to provide detailed information to compare aboriginal and non-aboriginal contact with, and treatment by, the criminal justice system, especially with respect to family violence.

1.1 subject to community support, youth justice committees be established under section 69 of the *Young Offenders Act* to assist in the disposition of cases involving aboriginal young offenders. The membership and responsibilities of such committees would be developed through consultations between federal and provincial government departments and Indian and Metis organizations.

1.2 the Young Offenders Division of Social Services and Indian and Metis organizations undertake a joint review of support services to, and programs for, aboriginal young offenders to:

- ensure an appropriate level of aboriginal access to, and participation in, the formulation and delivery of young offender programming, and mediation/diversion programming in particular;
- encourage the participation of Elders in the delivery of all facets of young offender programming, cultural and spiritual teaching and counselling in particular;
- improve the delivery of crime prevention programming to aboriginal youth;
- identify ways to better serve the treatment needs of aboriginal young offenders in relation to substance, psychological, sexual and physical abuse;
- reduce the incidence of offences against the justice system (e.g., failure to appear, failure to comply with disposition) among aboriginal youth; and
- consider options for establishing holistic programs in aboriginal communities (those which focus on spiritual, emotional, psychological, physical and material needs of young offenders), including open custody facilities.

1.3 the Young Offenders Program Division of Social Services, in consultation with Indian and Metis organizations, implement an employment equity program to achieve greater aboriginal participation at all levels: a minimum target would be the percentage of aboriginal people in Saskatchewan, the optimum a percentage of aboriginal staff equal to the percentage of aboriginal youth served.

1.4 cross cultural and race relations sensitivity training be provided to all Young Offenders Program Division staff.

1.5 such training be provided to all new employees and on an ongoing basis in-service, and include a strong aboriginal component to familiarize participants with the history and contemporary situation of Saskatchewan Indian and Metis peoples.

1.6 Young Offenders Program administrators be trained to identify signs of racial intolerance and remedial training programs be provided to any staff exhibiting racist attitudes and behaviours.

1.7 where remedial training has not had its desired effect, appropriate disciplinary action should be taken.

1.8 in consultation with Indian and Metis organizations, an Aboriginal Courtworker Program be established on a province-wide basis. Courtworkers would assist aboriginal youth (and adults) in conflict with the law to better understand and exercise their rights; enhance contact between accused and counsel; and serve as a liaison between accused and police, the courts, and young offenders programs (and corrections).

2.1 the Regina, Saskatoon and Prince Albert police services and other municipal police forces where appropriate, in consultation with Indian and Metis organizations, immediately implement, or accelerate existing plans to implement, employment equity programs to achieve aboriginal participation equivalent to the aboriginal proportion of the population served.

2.2 the Regina, Saskatoon and Prince Albert Police Commissions and other police commissions as appropriate include representation from the aboriginal communities of each centre; and that such representatives be appointed only following consultations with Indian and Metis organizations.

2.3 the Saskatchewan Police Commission include at least one representative from the Saskatchewan aboriginal community, and that s/he be appointed only following consultation with Indian and Metis organizations.

2.4 an aboriginal liaison/cultural relations officer position be established within the Saskatchewan Police Commission to serve as a resource/advisor for municipal police departments and the Commission on matters such as cross cultural education and race relations training; aboriginal officer recruitment, supervision and retention; and the provision of policing services to the aboriginal community.

2.5 cross cultural and race relations sensitivity training be provided to all officers and civilian support staff of Saskatchewan police forces.

2.6 such training be provided to new recruits and on an ongoing basis in-service, and include a strong aboriginal component to familiarize participants with the history and contemporary situation of Saskatchewan Indian and Metis peoples.

2.7 cross cultural and race relations sensitivity training include an evaluation component to assess the impact of such training.

2.8 wherever appropriate, spouses and children participate in training sessions, especially in instances where assignment to a reserve/remote/northern posting is anticipated.

2.9 the Regina, Saskatoon and Prince Albert police services and other municipal police services as appropriate, in consultation with Indian and Metis organizations and institutions, develop a co-ordinated aboriginal pre-employment training and recruitment program.

2.10 the Saskatchewan Police Commission and the RCMP Aboriginal Policing Section, in co-operation with the Canadian Centre for Police-Race Relations, Ottawa, review current recruitment standards to ensure that they are not culturally biased against aboriginal persons, and examine the merits of developing screening devices for racial intolerance.

2.11 the RCMP and the Regina, Saskatoon and Prince Albert police services and other police services as appropriate develop programs to assist aboriginal officers to handle the pressures and stresses associated with their work. Such programs could include peer support, employee assistance, counselling and mentoring.

2.12 the RCMP and the Regina, Saskatoon and Prince Albert police services and other municipal police forces as appropriate, in collaboration with aboriginal organizations and institutions, develop an instrument to assess the application of cross cultural skills to police work; and that officer performance appraisals include an evaluation of an officer's application of such skills in day-to-day interaction with aboriginal co-workers as well as members of the wider aboriginal community.

2.13 police administrators be trained to identify signs of racial intolerance and remedial training programs be provided to any staff exhibiting racist attitudes and behaviours.

2.14 where remedial training has not had its desired effect, appropriate disciplinary action should be taken.

2.15 the RCMP provide localized orientations prior to assignment to an aboriginal posting, northern and reserve postings in particular; and that such orientations include meetings with community representatives (e.g., First Nations councils, Metis Regional Councils, hamlet/village/town representatives, etc.).

2.16 the RCMP review its community advisory committee structures to ensure that they are in accord with community-based approaches to policing and accountability, and, more specifically, that they provide for community input into the selection of committee members.

2.17 the RCMP consult with local First Nations, Metis and northern government representatives regarding the desired knowledge and skills of officers to be transferred to remote postings.

2.18 Saskatchewan First Nations communities, in collaboration with the RCMP and federal and provincial government departments, determine their policing needs and identify appropriate community-based policing options (e.g., tribal police, satellite detachments, auxiliary officers, the Ventures Program, field placements, ride-alongs), whether under the provisions of the Saskatchewan *Police Act, 1990*, RCMP arrangements or First Nations policing legislation.

2.19 a senior-level aboriginal liaison position, preferably staffed by an aboriginal person, be established in the Regina, Saskatoon and Prince Albert police services and other municipal police services as appropriate to provide a focal point for police-aboriginal community relations and to co-ordinate policy regarding matters such as cross cultural education and race relations sensitivity training; aboriginal officer recruitment, supervision and retention; and the provision of policing services to the aboriginal community.

2.20 municipal police forces, in collaboration with Indian and Metis organizations, examine options to improve lines of communication with aboriginal communities, including community-based policing.

2.21 the Complaints Investigator and municipal police services undertake and/or expand programs to inform the public, and aboriginal communities in particular, about procedures in place to register and investigate complaints regarding police conduct and services. Where warranted, such information should be available in aboriginal languages.

2.22 the Saskatchewan Police Commission and municipal police services collaborate with Indian and Metis organizations to assess options under the Saskatchewan *Police Act,1990* to develop a citizen's complaint review mechanism credible to the Indian and Metis communities.

2.23 the RCMP Public Complaints Commission undertake a major public education campaign in Indian and Metis communities on its mandate, how to register a complaint, and how a complaint is investigated. Where warranted, such information should be available in aboriginal languages.

2.24 provincial and federal government departments examine the feasibility of amalgamating the review of complaints against the RCMP and municipal police forces under a single review agency.

3.1 federal and provincial government departments, in collaboration with Indian and Metis organizations, establish an Aboriginal Courtworker Program on a province-wide basis. Courtworkers would assist aboriginal adults and youth in conflict with the law to better understand and exercise their rights; enhance contact between accused and counsel; and serve as a liaison between accused and police, the courts, young offenders programs and corrections.

3.2 in consultation with Indian and Metis organizations, the Legal Aid Commission implement an employment equity program to achieve greater aboriginal participation at all levels: a minimum target would be the percentage of aboriginal people in Saskatchewan, the optimum a percentage of aboriginal staff equal to the percentage of aboriginal clients served.

3.3 in consultation with Indian and Metis organizations, a review of Legal Aid services be undertaken to identify funding and staffing assignment options to enhance the effectiveness of criminal Legal Aid services to Saskatchewan aboriginal communities, especially in the north.

3.4 cross cultural and race relations sensitivity training be provided to all Legal Aid staff.

3.5 such training be provided to all new employees and on an ongoing basis in-service, and include a strong aboriginal component to familiarize participants with the history and contemporary situation of Saskatchewan Indian and Metis peoples.

3.6 Legal Aid administrators be trained to identify signs of racial intolerance and remedial training programs be provided to any staff exhibiting racist attitudes and behaviours.

3.7 where remedial training has not had its desired effect, appropriate disciplinary action should be taken.

3.8 the board of the Legal Aid Commission include a minimum of 2 representatives from the aboriginal community; and that such representatives be appointed only following consultations with Indian and Metis organizations.

3.9 the *Legal Aid Act* be amended to authorize the Commission to establish regional advisory bodies with appropriate aboriginal representation to provide community-level input into Commission policies and programs.

4.1 the federal and provincial governments, in consultation with Indian and Metis organizations, establish youth and adult mediation/diversion/reconciliation programs. Such programs should be culturally appropriate and embody a holistic approach to offender rehabilitation (that is, an approach sensitive to the spiritual, emotional, psychological, physical and material needs of offenders).

4.2 eligibility criteria for access to mediation/diversion programming be reviewed with an eye to encouraging greater aboriginal participation.

4.3 subject to community support, community justice committees be established for adult aboriginal offenders to parallel the activities of youth justice committees. Committee responsibilities might include advising on pre-sentence reports and sentencing, providing crime prevention and public legal education programming, and administering alternative measures.

4.4 Saskatchewan Crown Counsel be encouraged to exercise greater flexibility and creativity regarding pre-trial detention and when speaking to sentence in cases involving aboriginal offenders in order to reduce the use of pre-trial detention and incarceration, and increase the use of culturally appropriate alternative measures.

4.5 the Saskatchewan judiciary be encouraged to exercise greater flexibility and creativity in remanding and sentencing aboriginal offenders in order to reduce the use of pre-trial detention and incarceration, and increase the use of culturally appropriate alternative measures.

4.6 the Saskatchewan judiciary be encouraged to order pre-sentence reports in all cases where the accused is an aboriginal mother with dependant children in order to encourage consideration of alternatives to incarceration, and, in those instances where incarceration is warranted, to allow an opportunity for appropriate child care arrangements to be made.

5.1 a Community Justice Liaison program be established in communities with significant aboriginal populations, and in northern communities in particular, to provide liaison services between aboriginal communities and court services. Responsibilities could include:

- providing interpreter services to the courts;
- conducting public legal education workshops;
- assisting witnesses to appear in court;
- providing services to victims; and
- facilitating community justice activities (e.g., support services to community justice committees).

5.2 public legal education materials be developed to assist aboriginal people to better understand the criminal justice system in general, and court processes in particular. Such materials would include a listing of legal terminology in appropriate aboriginal languages.

5.3 a 2-year pilot Indian Justice of the Peace Program be established for the 9 First Nations of the Meadow Lake Tribal Council.

5.4 consideration be given to making greater use of aboriginal justices of the peace, particularly in the north, to hear some types of matters such as bail applications, motor vehicle offences and minor criminal offences.

5.5 subject to community support, that the Provincial Court hold court sittings on-reserve, at least periodically, wherever suitable facilities are available and numbers warrant.

5.6 Saskatchewan Justice, in consultation with the Provincial Court of Saskatchewan, review the northern circuits of the court to:

- identify measures to reduce time pressures experienced in northern court sittings and to improve opportunities for liaison between the court and northern communities; and

- ensure that each northern circuit point is equipped with proper sound amplification equipment as well as a space where accused persons and witnesses can consult privately with counsel.

5.7 La Ronge be designated as a special northern circuit point of the Court of Queen's Bench for the purpose of hearing criminal trials as needed.

5.8 the 'relief teams' which periodically travel to northern circuits of the Provincial Court include at least two members familiar with the region and its peoples.

5.9 northern judges not be transported to court by the RCMP.

5.10 cross cultural and race relations sensitivity training be provided to all Saskatchewan judges, crown counsel, court officials and court support staff.

5.11 such training be provided to all new employees and on an ongoing basis in-service, and include a strong aboriginal component to familiarize participants with the history and contemporary situation of Saskatchewan Indian and Metis peoples.

5.12 court administrators be trained to identify signs of racial intolerance and remedial training programs be provided to any crown counsel, court officials and court support staff exhibiting racist attitudes and behaviours.

5.13 where remedial training has not had its desired effect, appropriate disciplinary action should be taken.

5.14 efforts be made by the judiciary and officers of the court to facilitate the giving of evidence in court by aboriginal persons in a traditional way, for example, by a sweet grass ceremony.

6.1 cross cultural and race relations sensitivity training be provided to all provincial and federal corrections staff.

6.2 such training be provided to all new employees and on an ongoing basis in-service, and include a strong aboriginal component to familiarize participants with the history and contemporary situation of Saskatchewan Indian and Metis peoples.

6.3 special emphasis be placed on the understanding and application of holistic healing models—those which focus on the spiritual, emotional, psychological, physical and material needs of inmates.

6.4 correctional authorities, in consultation with Indian and Metis organizations, develop an instrument to assess the application of cross cultural skills to corrections work; and that employee performance appraisals include an evaluation of a corrections worker's application of cross cultural skills in day-to-day interaction with aboriginal co-workers and inmates.

6.5 corrections administrators be trained to identify signs of racial intolerance and remedial training programs be provided to any staff exhibiting racist attitudes and behaviours.

6.6 where remedial training has not had its desired effect, appropriate disciplinary action should be taken.

6.7 community corrections staff receive local orientations where appropriate.

6.8 aboriginal federally-sentenced women not serve their sentences at the Kingston Prison for Women, and, pending the opening of a facility in Western Canada, those serving their sentences at Saskatchewan Penitentiary have access to a full range of culturally sensitive and gender appropriate programming.

6.9 the Pine Grove Correctional Centre review its policies on access to the facility's family visitation unit with an eye to reducing the length of time that inmates must wait before they can apply to use it.

6.10 the Pine Grove Correctional Centre implement vocational, educational and upgrading programs which are more appropriate to aboriginal women's career needs.

6.11 appropriate action be taken to implement recommendations flowing from an investigation into allegations of racism at Pine Grove Correctional Centre initiated in response to concerns brought to the attention of the Review Committee in November, 1991, by former Pine Grove staff.

6.12 Saskatchewan Corrections and the Correctional Service of Canada (CSC), in consultation with Indian and Metis organizations, immediately implement employment equity programs to achieve greater aboriginal participation at all levels. A minimum target would be the percentage of aboriginal people in Saskatchewan; the optimum, a percentage of aboriginal staff equal to the percentage of aboriginal offenders served.

6.13 provincial and federal Corrections develop programs to assist aboriginal staff to handle the pressures and stresses associated with their work. This could include peer support, employee assistance, counselling and mentoring.

6.14 provincial and federal Corrections, in collaboration with Indian and Metis communities, implement programming to enhance access to pre- and post-release planning services with respect to employment, housing, education, counselling and other support services. Wherever possible, such services should be delivered by a network of local aboriginal service providers. To this end, provincial and federal Corrections officials should meet with representatives of aboriginal communities on a regular basis to exchange views and identify potential community resources to foster offender reintegration.

6.15 federal and provincial corrections services review all programming (e.g., life skills, parenting, battering and family violence, anger management, money management and budgeting, educational and vocational programs and sexual, physical and substance abuse counselling) to ensure that it is culturally sensitive, gender appropriate and accessible.

6.16 provincial corrections ensure that, to the maximum extent possible, inmates serve their sentences in a correctional facility nearest to their home.

6.17 federal and provincial Corrections services ensure that inmates have reasonable access to psychological/psychiatric services and/or spiritual advice to assist with immediate problems, and regular access to professional counselling services to address longer-term needs.

6.18 psychological tests used by federal Corrections in the assessment of aboriginal offenders be reviewed to ensure that they are not culturally biased against aboriginal inmates.

6.19 Corrections Canada's current emphasis on accredited education, upgrading and modular training, especially in Native Studies, continue.

6.20 provincial Corrections work with Corrections Canada to adopt/adapt similar modular programming, especially in Native Studies.

6.21 the Federation of Saskatchewan Indian Nations meet with federal and provincial Corrections to review the application of existing Treaty Rights as they apply to Treaty Indian inmates.

6.22 there be greater access to Aboriginal Elders and Spiritual Advisors; and that they be appropriately remunerated for their services.

6.23 Aboriginal Elders and Spiritual Advisors be accorded the same status, freedom and independence within correctional institutions as Christian and other religious service providers.

6.24 provincial Corrections, in consultation with Indian and Metis organizations, develop clearance procedures which are respectful of the sacred nature of religious objects used by Elders and Spiritual Advisors.

6.25 the National Parole Board re-affirm its commitment to accord participation in aboriginal spiritual programming the same weight in parole decision-making as participation in Christian and other religious programming.

6.26 the composition of the Board and staff of the Prairie Region of the National Parole Board reflect the fact that aboriginal inmates comprise a significant portion of federally and provincially sentenced inmates serving their sentence in Saskatchewan.

6.27 the National Parole Board in the Prairie Region facilitate communication between the Board and aboriginal communities to enhance its ability to identify culturally appropriate means of conducting parole hearings and the application of parole conditions for aboriginal offenders.

6.28 the policies and practices revolving around the detention of federally-sentenced offenders beyond their normal release date (gating) be reviewed to ensure that they are not culturally biased against aboriginal persons.

7.1 Indian and Metis organizations and federal and provincial government departments jointly develop delivery standards and evaluation criteria for cross cultural training.

8.1 Saskatchewan Justice, in consultation with the judiciary and representatives of both the aboriginal and non-aboriginal communities, evaluate the need for family violence courts in the Saskatchewan context.

8.2 the provincial and federal governments support the development of protocols and networks to assist in educating and co-ordinating the work of agencies dealing with family violence in the aboriginal community.

ENDNOTES

1. Joint Studies: Government of Canada, Government of Saskatchewan, Federation of Saskatchewan Indian Nations, Reflecting Indian Concerns and Values in the Justice System, April 4, 1985.

2. The Saskatchewan Indian Justice Review Committee, The Interim Report of the Indian Justice Review Committee, September, 1991, pp.10-12.

3. Department of Justice, Canada, Aboriginal People and Justice Administration: A Discussion Paper, September, 1991, pp.19-20.

4. Justice Walter S. Tarnopolsky, Convocation Address to Osgoode Hall Law School, June 16, 1989.

5. See, among others, J. R. Miller, Skyscrapers Hide the Heavens: A History of Indian-White Relations in Canada (Toronto: University of Toronto Press, 1989), and Alan D. McMillan, Native Peoples and Cultures of Canada (Vancouver: Douglas and McIntyre, 1988) for an overview of the major tribal groupings of Saskatchewan.

6. Statistics Canada, Aboriginal Peoples Output Program, Canada's Aboriginal Population by Census Subdivision from the 1986 Census of Canada (Ottawa: Supply and Services Canada, March 1989), p.68. For purposes of this report, unless otherwise noted, the term Indian refers to aboriginal people who are entitled to be registered as Indians pursuant to the Indian Act. Metis, in contrast, denotes those aboriginal people of mixed aboriginal-European ancestry who consider themselves to be neither Indian nor Inuit, or who regard themselves as Metis. Finally, Inuit denotes those aboriginal people formerly known as Eskimos. These definitions draw upon those used by the Manitoba Aboriginal Justice Inquiry. See Manitoba, Public Inquiry into the Administration of Justice and Aboriginal People, Report of the Aboriginal Justice Inquiry, Volume 1: The Justice System and Aboriginal People (Winnipeg: Queen's Printer, 1991), p.7.

7. Indian and Northern Affairs Canada (INAC), Quantitative Analysis and Socio-demographic Research, Indian Register Population by Sex and Residence, 1990 (Ottawa: INAC, 1990), p. xi.

8. The figure of 10,500 is drawn from Health and Welfare Canada, Medical Services Branch, Saskatchewan Region, The Health of the Registered Indian Population of Saskatchewan (April 1989), p.8. Under the previous Indian Act Indian women lost their status when they married a non-Indian. Others, men and women, lost their status or became "dis-enfranchised" on joining the clergy or the armed forces, completing university studies, or voting in federal elections.

9. Statistics Canada, Canada: A Portrait (Ottawa: Supply and Services Canada, 1991), p.42.

10. INAC, Indian Register Population by Sex and Residence, 1990, p.43.

11. Reliable data on the Indian population of each centre is unavailable. The FSIN estimates that, as of 1988, about 8,200 (Treaty) Indians resided in Regina and Saskatoon respectively (Federation of Saskatchewan Indian Nations, "A Proposal to Develop Treaty Administration Centres," January 1989, p.5). Census figures, in contrast, are substantially lower. The total aboriginal populations (Indian and Metis) of Regina and Saskatoon, as of 1986, were as follows: Regina, 8,290 of 173,095 (4.8 percent); and Saskatoon, 9,410 of 175,465 (5.4 per cent). The aboriginal populations of other Saskatchewan urban centres were: Prince Albert, 4,680 of 32,720 (14.3 per cent); North Battleford, 1,540 of 14,640 (10.5 per cent); Moose Jaw, 955 of 33,620 (2.8

per cent); and Yorkton, 640 of 15,290 (4.2 per cent). It has been frequently suggested, however, that these figures constitute an undercount the urban aboriginal population of the province.

Statistics Canada is in the process of preparing a series of publications focusing on aboriginal people, that is, "persons who reported that they were registered under the Indian Act of Canada or who reported at least one aboriginal origin such as North American Indian, Metis or Inuit." They are based on the 1991 Census as well as a post-censal survey.

As Statistics Canada explains, publications based on the Census

> will cover a wide range of Census variables — for example, age, sex, language use, labour force status and income — for each aboriginal group and for the non-aboriginal population (Statistics Canada, "1991 Census Preview of Products and Services," p.9).

In addition, those based on the post-censal survey will cover such major topics as:

> aboriginal group identity, language and tradition, disability, health, lifestyle and social issues, mobility, schooling, work and related activities, expenditures and income, and housing conditions (p.19).

Publications from the series are to be released starting in the first quarter of 1993.

12. Calculated from Indian and Northern Affairs Canada, Indian Register Population by Sex and Residence, 1990 (Ottawa: INAC, 1990), pp.36-42.

13. The former growth rate is calculated from Health and Welfare Canada, Medical Services Branch, Saskatchewan Region, 1989 Vital Statistics of the Saskatchewan Registered Indian Population, p.22 and INAC, Indian Register, p.43; and the later from Saskatchewan Health, Covered Population, 1980 (Regina: Queen's Printer, 1981) and Covered Population, 1990 (Regina: Queen's Printer, 1990).

14. Shirley Loh, Population Projections Section, Demography Division, Statistics Canada, Population Projections of Registered Indians, 1986-2011 (Ottawa: Supply and Services Canada, January 1990), p.163.

15. Ibid., p.67.

16. Ibid. and Statistics Canada, 1986 Census.

17. See, among others, Carole LaPrairie, "The role of sentencing in the over-representation of aboriginal people in correctional institutions," Canadian Journal of Criminology 32:3 (July 1990); Curt Griffiths and Simon Verdun-Jones, Canadian Criminal Justice (Toronto: Butterworths, 1989), ch. 15; and Miller (1989) on this point.

18. George K. Jarvis, An Overview of Registered Indian Conditions in Saskatchewan (Ottawa: Indian and Northern Affairs Canada, 1987), p.125.

19. Canadian Centre for Justice Statistics, Statistics Canada, Crime in Aboriginal Communities, Saskatchewan 1989 (April 1991), p.26.

20. Statistics Canada, Aboriginal Peoples Output Program, A Data Book on Canada's Aboriginal Population from the 1986 Census (March 1989), pp.205-206. The on-reserve and off-reserve figures are from INAC, Quantitative Analysis and Socio-demographic Research (QASR), "INAC Customized Data based on 1986 Census of Canada," July 1990, and refer to Indians pursuant to the Indian Act as of 1986. The figures regarding general trends refer to those who reported themselves to be single origin North American Indians in the 1986 Census. While the two categories are not one in the same, they cover very similar populations.

21. Statistics Canada, A Data Book, pp.199-200.

22. Ibid., pp.207-208.

23. Statistics Canada, A Data Book, p.208; and CCJS, Crime in Aboriginal Communities, Saskatchewan 1989, p.49.

24. Ibid., pp.45-46.

25. The former figure is based on Indian and Northern Affairs Canada, 1988-89 Annual Report, p.53; the later on Saskatchewan Social Services, Social Assistance Plan caseload of 54,900 as of March 1990, plus the former figure. However, it must be stressed that there are a variety of transfer payment programs, of which social assistance is just one.

26. Indian and Northern Affairs Canada, Quantitative Analysis and Socio-demographic Research, "INAC Customized Data Based on 1986 Census of Canada" (July, 1990).

27. Health and Welfare Canada (April 1989), p.13.

28. Ibid., p.17.

29. Health and Welfare Canada (April 1989), p.22; and Saskatchewan Health, Vital Statistics, unpublishe. data.

30. Saskatchewan Alcohol and Drug Abuse Commission (SADAC), Suicide in Saskatchewan: The Alcohol and Drug Connection (Regina: SADAC, 1988), p.18.

31. Ibid., p.17.

32. Canadian Centre for Justice Statistics, Homicide in Canada 1988, A Statistical Perspective (Ottawa: Minister of Supply and Services Canada, 1989), p.68.

33. Health and Welfare Canada (April 1989), pp.36-37.

34. Saskatchewan Alcohol and Drug Abuse Commission (SADAC), Management Information System, January 1992. It should be noted that Indian people resident on-reserve also receive substance abuse treatment services through the National Native Alcohol and Drug Abuse Program. Finally, it must be emphasized that although substance abuse is a far from localized problem, it is nevertheless clear that some groups more than others suffer from its adverse effects, and that aboriginal people suffer more than most. See, among others, SADAC (1988) and SADAC, Legal Offences in Saskatchewan: the Alcohol and Drug Connection (Regina: SADAC, 1989) on this point.

35. Health and Welfare (April 1989), pp.29-30.

36. Ibid., pp.33-34. See also Health Status Research Unit, Department of Community Health and Epidemiology, University of Saskatchewan, Health Status of the Saskatchewan Population (Saskatoon, 1989) for a detailed analysis of the health status of the Indian and general populations of the province by age group.

37. See Province of Saskatchewan, Northern Education Task Force (Roy Ceecham, chairperson), Report to the Minister of Education, Summary of Findings (November 15, 1989) for a recent overview of the region. See also CCJS (April 1991).

38. Statistics Canada, Aboriginal Peoples Output Program, Canada's Aboriginal Population by Census Subdivision from the 1986 Census of Canada (Ottawa: Supply and Services Canada, March 1989), pp.68-79.

39. Statistics Canada, A Data Book, pp.193-194. The socio-demographic data presented are based on the combined responses of Metis only, and Metis and Non-Aboriginal respondents 15 years of age and older (13,490) in the 1986 Census.

40. Ibid., pp.205-206.

41. Ibid., pp.199-200.

42. Ibid., pp.207-208.

43. Ibid., pp.207-208.

44. Ibid., pp.215-216.

45. Calculated from annual reports on Uniform Crime Reporting data as reported in Canadian Crime Statistics 1990 and similar reports dating back to Crime and Traffic Enforcement Statistics 1979, Statistics Canada, Canadian Centre for Justice Statistics. Note: the differences in the crime trend data referenced in the Interim Report of the Committee and the data referred to in this report are due to finalization of 1990 data. Only preliminary data were available for the Interim Report.

46. Ibid.

47. Ibid. Note males charged in 1979 52,672, females 6,291, and juveniles 7,129 as compared to 1990 figures of 37,955, 8,224, and 14,259.

48. Calculated from annual reports on corrections data bases as reported in Adult Correctional Services in Canada 1989-90 and similar reports dating back to Correctional Services in Canada 1980/81, Statistics Canada, Canadian Centre for Justice Statistics.

49. Ibid., based on 1987-88, 1988-89, 1989-90 reports. Also note that Adult Correctional Services In Canada 1990-91 was released December 20, 1991, and indicates a further decline from 7,870 admissions in 1987-88 to 7,377 admissions in 1990-91.

50. Ibid., 1989-90 report.

51. Supra note 49, Adult Correctional Services In Canada 1990-91.

52. Solicitor General's Division, Saskatchewan Justice, corrections database shows 1,586 applications with 709 aboriginal applications accepted and 348 non-aboriginal applications accepted.

53. Solicitor General's Division, Saskatchewan Justice, corrections database shows 825 applications for community training residence with 442 aboriginal applications accepted and 202 non-aboriginal applications accepted.

54. Solicitor General's Division, Saskatchewan Justice, corrections database.

55. Correctional Service Canada, submission to the Committee, September 5, 1991.

56. Young Offenders Program Division, Saskatchewan Social Services, submission to the Committee, July 23, 1991.

57. Supra, note 19.

58. Canadian Centre for Justice Statistics, "Recidivists in Youth Court: An Examination of Repeat Young Offenders Convicted in 1988-89," Juristat 10:8 (June 1990).

59. Supra, note 56.

60. Solicitor General Canada, Annual Report 1988-89, p.3, 21.

61. For details see The Police Act, 1990, Parts I, II and III; Saskatchewan Justice, Annual Report 1990-91, p. 17; and the Saskatchewan Police Commission, Annual Report 1990-91, p.8.

62. Canadian Centre for Justice Statistics (CCJS), "Police Personnel and Expenditures in Canada - 1990," Juristat Bulletin 11:17 (November 1991), p.16.

63. Saskatchewan Police Commission, 1990-91 Annual Report, p.8.

64. The Police Act, 1990, Part III, sections 4 to 28.

65. CCJS (November 1991), p.15.

66. Ibid., p.13; and Policing Branch, Solicitor General Division, Saskatchewan Justice.

67. CCJS (November 1981), p.14.

68. CCJS, "Government Spending on Justice Services," Juristat Bulletin 11:7 (April 1991), p.1.

69. The total officer compliment is as of March 31, 1991.

70. Manitoba Aboriginal Justice Inquiry, vol. 1 (1991), pp.601-602. The foregoing list is by no means exhaustive.

71. See Jim Harding, "Policing and Aboriginal Justice," Canadian Journal of Criminology 33:3-4 (July-October 1991), pp. 363-384, on these points. See Alberta, Task Force on the Criminal Justice System and Its Impact on the Indian and Metis People of Alberta, Justice on Trial (Edmonton, March 1991), ch.9 for a typology of some of the key differences and similarities between traditional aboriginal and Euro-Canadian approaches to dispute resolution and justice. See also Manitoba Aboriginal Justice Inquiry (1991) ch.2.

72. This six-month course, funded by Canada Employment and Immigration, provided participants a chance to upgrade their academic standing to the minimum required for entry into policing,

introduced them to policing concepts, and provided basics such as driver training and physical fitness training.

73. Manitoba Aboriginal Justice Inquiry, Vol. 1 (1991), p.604.

74. Saskatchewan Justice, 1990-91 Annual Report, p.17.

75. Indian and Northern Affairs Canada, Indian Policing Policy Review - Task Force Report (Ottawa: Supply and Services Canada, January 1990).

76. RCMP Public Complaints Commission, Annual Report 1990-91, p.19.

77. Ibid., p.146.

78. Ibid.

79. Law Reform Commission of Canada, Report On Aboriginal Peoples and Criminal Justice, Report 34, 1991, pp.28-29.

80. Statistics provided by the Native Law Centre to Judge Pat Linn.

81. Scott Clark, G.S. Clark and Associates Ltd., Sentencing Patterns and Sentencing Options Relating to Aboriginal Offenders, Department of Justice Canada (June 1989), p.57.

82. Therese Lajeunesse, Program on Conflict Resolution Working Paper: 1991-1, Cross Cultural Issues In The Justice System: The Case of Aboriginal People In Canada, University of Hawaii at Manoa, pp.13-15.

83. Aboriginal Legal Services of Toronto, Quarterly Report July 1 to September 30, 1991, pp.8-9.

84. John Hagan, "Law, Order and Sentencing: A Study of Attitude in Action," (1975) 38:2 Sociometry 375, cited at Scott's paper, supra note 81, at p.25.

85. Department of Justice, Northwest Territories, Aboriginal Justice In the Northwest Territories (July, 1991), pp.14-15.

86. Supra, Note 49, 1990-91 Statistics.

87. Refer back to Sask. Criminal Information Section.

88. Refer back to Sask. Criminal Information Section.

89. CSC data for 1990-91 and the first six months of the 1991-92 fiscal year indicate that 37% of the Prairie Region prison population is aboriginal while the percentage of paroles granted to aboriginal inmates had risen from 22% in 1990-91 to 32% in the first six months of 1991-92 (April to October).

Saskatchewan Justice, Solicitor General Division, Corrections data for 1990-91 indicate that of 6,452 inmates admitted to provincial correctional centres in Saskatoon, Regina and Prince Albert (mens and womens): 66% were aboriginal; 67% of aboriginal inmates applied for early release; and 66% of the applications by aboriginal inmates were granted. These are virtually identical to the application and grant rates for non-aboriginal inmates.

90. Solicitor General's Division, Saskatchewan Justice, Corrections database.

91. Pine Grove Inmate Committee to Adele Ratt, Prince Albert Community Clinic, March 28, 1990, as cited in Prairie Justice Research, Strategies to reduce the over-incarceration of aboriginal people in Canada: a research consultation (Regina: Prairie Justice Research, University of Regina, 1990), Appendix 7.

92. D.R. Hughes and E. Kallen, The Anatomy of Racism: Canadian Dimensions (Montreal: Harvest House, 1974), p.105, as cited in Bruce H. Wildsmith, "Getting at Racism: the Marshall Inquiry," Saskatchewan Law Review 55:1 (1991), p.104.

93. Wildsmith (1991), p.105.

94. National Clearinghouse on Family Violence, Wife Abuse (Ottawa: Health and Welfare Canada, 1990).

95. Colin Meredith and Chantel Paquette, Study to Review And Analyze RCMP Data on Spousal Assault From 1985 to 1988. Solicitor General Ministry Secretariat User Report No. 1990-04 (1990).

96. Ontario Native Women's Association, Breaking Free: A Proposal for Change to Aboriginal Family Violence (December 1989).

97. Manitoba Aboriginal Justice Inquiry, vol. 1 (1991), p.481.

98. Ibid, p.485.

99. Ibid., p.483.

APPENDIX 1

Canada

Saskatchewan

91-334

IMMEDIATE RELEASE
June 5, 1991

News Release/Communiqué

ABORIGINAL JUSTICE REVIEW COMMITTEES ESTABLISHED

How the criminal justice system of Saskatchewan deals with aboriginal people will be examined by two committees created by special agreements between the province's aboriginal organizations and the governments of Saskatchewan and Canada.

The review committees were announced today by Justice Minister Gary Lane; Vikas Khaladkar, legal counsel for the Federation of Saskatchewan Indian Nations (FSIN); Noble Shanks of the Metis Society of Saskatchewan; and federal Justice Minister Kim Campbell.

"The Saskatchewan Metis Justice Review Committee and the Saskatchewan Indian Justice Review Committee will examine and recommend changes to make the criminal justice system more responsive to the needs and concerns of Saskatchewan Indians and the Metis of this province," Lane said.

"The committees will have broad mandates extending to crime prevention, policing, the courts and corrections."

Both committees will be chaired by Judge Pat Linn of the Provincial Court of Saskatchewan. Each committee will prepare a report to be presented by December, 1991. The report regarding Indian people will be presented to the federal and provincial governments and the FSIN, and the report regarding the Metis will be presented to the Metis Society of Saskatchewan and the federal and provincial governments.

"We have established the two committees to ensure that the varying circumstances of Saskatchewan Indians and the Metis are properly accommodated by the review process," Lane said. "The committees will focus on practical, community-based initiatives which will meet real needs."

Isabelle Impey and Noble Shanks will represent the Metis Society of Saskatchewan on the Metis Justice Review Committee. Dan Bellegarde and Blaine Favel will represent the FSIN on the Indian Justice Review Committee. Government representatives on both committees are: Terry Thompson and Betty Ann Pottruff of Saskatchewan Justice; Susan Mak of Justice Canada; and Allan Phibbs of the federal ministry of the Solicitor General.

Funding for the review committee is being provided by the Law Foundation of Saskatchewan, Saskatchewan Justice, Justice Canada and the federal ministry of the Solicitor General. The terms of reference for both committees permit consultation with, or receiving presentations from, interested groups or individuals at the discretion of the chair.

The Indian Justice Review Committee will also examine the findings of a 1985 FSIN-federal-provincial study into the relationship between Indian people and the justice system.

"It is the hope of all parties that both the Indian Justice Review Committee and the Metis Justice Review Committee will make major contributions to the ongoing task of building a criminal justice system which better accommodates the unique culture, values and traditions of both the Metis and Indian people of this province," Lane said.

For further information, contact:

Judge Patricia Linn
Provincial Court
of Saskatchewan
Saskatoon
Phone: 933-6682

Brian Barrington-Foote
Deputy Minister
Saskatchewan Justice
Regina
Phone: 787-5352

Noble Shanks
Metis Society of Saskatchewan
Saskatoon
Phone: 343-8285

Vikas Khaladkar
Federation of Saskatchewan
Indian Nations
Regina
Phone: 721-2822

Dan Prefontaine
Assistant Deputy Minister
Justice Canada
Ottawa
Phone: (613) 957-4701

APPENDIX 2
INDIAN JUSTICE REVIEW COMMITTEE
TERMS OF REFERENCE

The Saskatchewan Department of Justice, the Government of Canada and the Federation of Saskatchewan Indian Nations agree to establish a Saskatchewan Indian Justice Review Committee for the period from June 7, 1991 to December 7, 1991.

1. Objectives

The objectives of the Committee are:
— to facilitate consultation on the criminal justice system as it relates to Saskatchewan Indian people and communities;
— to consider recommendations relating to the delivery of criminal justice services to Saskatchewan Indian people and communities, and more particularly, relating to the development and operation of practical, community-based initiatives intended to enhance such services;
— to report such recommendations to the Federal and Provincial governments and to the Federation of Saskatchewan Indian Nations.

2. Scope

The Committee may conduct consultations and make and report recommendations in relation to any part of the criminal justice system, including but not restricted to crime prevention, policing, the courts and corrections.

3. Membership

The Committee shall have the following members:
— two members appointed by the Federation of Saskatchewan Indian Nations;
— two members appointed by Saskatchewan Justice;
— two members appointed by the Government of Canada;
— a Chairperson to be chosen by agreement of all members of the Committee.

4. Workplan

(a) The Chairperson shall call meetings of the Committee on a regular basis, and more particularly, shall make best efforts to ensure that meetings are held at leat twice in each month;

(b) The Chairperson shall set the time, place and agenda for meetings of the Committee following consultation with Committee members;

(c) The initial agenda of the Committee shall include the following items:
— to share information on Indian Justice issues and programs in Saskatchewan;

— to review the 1985 FSIN-Saskatchewan Justice-Justice Canada joint study, *Reflecting Indian Concerns and Values in the Justice System*, to consider whether the initiatives described therein have been implemented or should be recommended, whether as pilot projects or otherwise; and
— to develop a workplan which priorizes the policy and program areas to be considered by the Committee.

(d) The Committee may, at the discretion of the Chairperson, consult with or receive representations from any person, group or organization whose participation is considered necessary or desireable to advance the work of the Committee.

(e) The Committee shall report its activities, findings and recommendations to Saskatchewan Justice, the Government of Canada and the Federation of Saskatchewan Indian Nations, as follows:

(i) an interim report, including future plans, by September 7, 1991;
(ii) a draft final report by November 7, 1991;
(iii) a final report by December 7, 1991;
(iv) from time to time at the discretion of the Chairperson.

SUMMARY
STATUS REPORT ON REFLECTING INDIAN CONCERNS

Page	Recommendation	Status
	Customary Law	
17	1. - encourage Indian communities and educational institutions to develop mediation and conciliation processes and techniques; - techniques to be used to resolve contested elections under custom.	- GDI and SIFC have new Human Justice and Indian Social Work programs. - since March 1988, INAC has encouraged 29 Saskatchewan bands holding elections by custom to codify appeal procedures, 9 have done so.
18	2. - encourage changes recommended by the various working groups--Corrections, Law Enforcement and JP's.	- see appropriate specific recommendations below.
18	3. - encourage further research on customary law.	- no Justice Canada/ Saskatchewan Justice sponsored/funded activity has occurred in this province, but has been undertaken elsewhere (e.g., BC, Quebec and the Yukon).

Justices of the Peace

28	4.	- cross-appoint Native (Indian) JP's under section 107 of the Indian Act.	- cross-appointment did not proceed due to lack of resources for training and supervision, community pressures on JP's, low salaries, high turnover, and lack of authority and jurisdiction; 11 of 200 Presiding JP's are aboriginal.
28	5.	- appoint a person to design a new JP program according to mutually agreed upon guidelines.	- a new JP program was designed and 2 training modules--1 on judicial interim release, the other on search warrant issuance--were prepared. As well, a supervising JP was appointed by the Provincial Court to provide supervision and training (1989).
28	6.	- develop a new JP training program.	- see status of recommendation 5 above.
28.	7.	- increase support services provided to JP's.	- see status of recommendation 5 above.
28.	8.	- ascertain the costs of this program.	- no estimates have been calculated.

28	9.	- ensure adequate supervision of JP's appointed under section 107 of the Indian Act.	- no appointments made. Further, about 5% (11 of 200) of Presiding JP's are aboriginal.
28	10.	- include a built-in evaluation in Native JP program.	- no program; hence, no evaluation component. An evaluation of the J.P. program was done in 1988, and a new JP Act passed.
		Peacemakers	
33	11.	- encourage the use of peacemakers.	- no formal activity initiated by Saskatchewan Justice.
33	12.	- expand the role of peacemakers to include mediation responsibilities.	- no formal activity initiated.
33	13.	- provide services to supplement and and assist peacemakers.	- see status of recommendation 12 above.
34	14.	- encourage interested communities to design tailor-made peacemaker programs.	- see status of recommendation 12 above.
34	15.	- designate a resource person to assist communities as necessary.	- no action taken.
34	16.	- consider appointment of person to assist bands operating under custom to develop election appeal procedures.	- see status of recommendation 1 above.

Corrections

38	17.	- given the widespread perception that the criminal justice system is isolated and removed from everyday life on-reserve, community development should be the focus of attention.	- community corrections committees underway in 15 centres.
38	18.	- where feasible, return certain aspects of the criminal and juvenile justice systems (e.g., developing indigenous community institutions of service based on traditional values) to reserve communities.	- see status of recommendation 17.
39	19.	- place greater emphasis on on-reserve service delivery (e.g., police, probation and community services).	- 65 (of 325) fine option agents are located on-reserve; 3 reserve-based native policing units are in operation, and 3 more are planned for 91. NPUs currently operate at Little Pine/Poundmaker, Red Earth/Shoal Lake and Sandy Lake; and will open at Dillion, Thunderchild and Stanley Mission in the fall 1991. As well, new detachment buildings with be officially opened at Sandy Bay, Ile a la Crosse and Carrot River in late June 1991. Also, 'devolution' of INAC and H & W programs continues.

40	20.	- place greater emphasis on public education about Indian peoples as well as culturally-appropriate training for personnel who provide services on-reserve.	- the Indian Metis Education Branch of Saskatchewan Education has a number of major initiatives (e.g., the Indian and Metis Education Policy; teacher training programs; incentives to local school divisions, etc.). As well, Saskatchewan Justice, Corrections Canada and the RCMP have a variety of cross-cultural training programs in place. Finally, the PLEA Legal Lifeskills Workshop (Intermediary Training Program) is promoted by Sask Justice and Justice Canada. It is targetted towards women, aboriginal people and the disabled.
39	21.	- encourage and support 'networking' to optimize efficient service delivery.	- difficult to assess, see status of recommendations 24 and 25 below.
39	22.	- encourage more Indian involvement in existing justice system.	- see status of recommendations 24 and 25 below.
39	23.	- consider developing a generalist approach to consolidate on-reserve delivery of alternative programs.	- difficult to assess, see status of recommendations 24 and 25 below.

39	24.	- undertake research and associated community workshops to "demystify" or explain the criminal and youth justice systems to on-reserve populations.	- Saskatchewan Justice has not held formalized community workshops, nor has it prepared Indian-specific public legal education materials. However, other initiatives have been undertaken. For example, the RCMP is establishing aboriginal/community advisory committees at the detachment (20), sub-divisional (6) and divisional levels (1). As well, Corrections has contacted 15 communities about establishing community corrections committees. Further, Justice Canada has conducted research on sentencing alternatives (Clarke, 1989). Finally, PLEA delivers targeted Legal Lifeskills Workshops to aboriginal communities.
40	25.	- develop specific mechanisms (e.g., information packages, booklets, video materials, live theatre, etc.) to inform reserve communities about existing justice and social programs and their accessibility.	- see status of recommendation 24 above. As well, PLEA has developed a series of short information sheets on being a witness, etc. along with existing booklets on topics such as battered wives, seniors law and court structure. This literature is being widely distributed.

40	26.	- give special consideration to informing and sensitizing justice system employees working with reserves about Indian cultures.	- cross-cultural training is currently provided to police, prosecutors, judicial and corrections personnel. See also status of recommendation 20 above.
40	27.	- give workers, paid or voluntary, adequate training and orientation.	- extensive training, including university-based instruction, is provided to justice system workers by the Gabriel Dumont Institute and the School of Human Justice.
40	28.	- provide workers regular opportunities for upgrading training.	- in cooperation with Social Services, Saskatchewan Justice co-sponsored 11 courses with 210 participants in 1988/89. As well, 286 Justice staff participated in various PSC courses. Further, 12 weeks of formalized training is provided to Corrections workers prior to employment--60 workers graduated in 1988-89. Lastly, 7 staff were given Education Leave to complete their degree or certificate requirements.

40	29.	- support the development of multi-disciplinary drug and alcohol rehabilitation strategies.	- in addition to culturally sensitive, institution-based services in both the provincial and federal correctional spheres, services provided by SADAC and NNADAP (National Native Alcohol and Drug Abuse Program) have been expanded.
40	30.	- develop community-level prevention strategies which involve recreation, cultural, employment and preventative policing components.	- the Solicitor General has embraced community-based policing. As well, the RCMP has established community/aboriginal advisory committees. In addition, it provides a number of community-level crime prevention programs (e.g., Perfect School Attendance, school visits, coaching programs, drug/alcohol programs, bike rodeos, family violence awareness, etc.).
40	31.	- develop ways, such as Community Justice Committees, to increase community participation in the management of criminal behaviour.	- preliminary work on community-level aboriginal justice committees has been completed.

41	32.	- reaffirm the principle that the judicial sanction of incarceration should be used only as a last resort; and use fines only when satisfied that the offender has the means to pay.	- August 1990, release by Justice Canada of Directions for Reform-Sentencing References: establishes sentencing principles which incorporate these ideas. Consultations are on-going. Nonetheless, a substantial minority of Indian inmates (42% in 1988-89) are incarcerated for fine default.
41	33.	- make greater use of fine option, community service order, restitution and compensation programs.	- see status of recommendation 32 above.
41	34.	- examine existing research to find potential solutions to the 'over-representation problem;' and, in future, evaluate programs introduced to address it.	- the search for potential solutions continues. La Prairie (1991) has made a major contribution, as have Griffiths and Verdun-Jones (1989) as well as Cawsey et al. (1991).
41	35.	- give special consideration to research on ways to reduce the overrepresentation of Indian women, and develop programs to alleviate this problem.	- activity on this issue is ongoing, and includes the recently completed Task Force on Federally Sentenced Women; the GDI-operated CTR for women located at Saskatoon; and electronic monitoring/intensive probation for non-violent offenders.

42	36.	- make existing alternatives to incarceration more sensitive to Indian values and increase community involvement.	- see status of recommendations 20,24,30 and 31 above.
42	37.	- take account of transportation difficulties related to charges of failure to appear.	- At present, no special transportation programs are provided.
41	38.	- bring the court system closer to the reserves by: 1) increasing the number of Provincial Court sittings on-reserve; 2) having Indian JP's working and/or residing on-reserve; and by using local dispute resolution mechanisms.	- the Provincial Court currently holds court on, or in close proximity to, reserves at 10 northern locations. Whether or to what extent it would be feasible to hold court on-reserve elsewhere warrants further consideration. As regards presiding Indian JP's, there are few active across the province. See also status of recommendation 1 above.

42	39.	- give consideration to: 1) establishing local community justice committees at the community level; 2) appointing Indian Community Justice Workers at the local (community) level; and 3) appointing Justice Coordination Workers and Indian Crime Management Workers at the district or provincial level.	- as discussed at recommendation 31, preliminary work on local Aboriginal Justice Committees has been undertaken. However, no action has been undertaken in relation to elements 2) and 3).
		Law Enforcement	
61	40.	- (the FSIN, the RCMP and the Province) consider measures to ensure that Indian communities are better informed about law enforcement, policing and input communities can have into policing services.	- as discussed at recommendation 24, the RCMP has launched advisory committees at several levels and Sask. Justice has begun work on local Aboriginal Justice Committees. In addition, the FSIN is conducting a series of justice roundtables with tribal councils and/or specific bands across the province.
61	41.	- sponsor workshops at the local or district level and produce booklets, pamphlets and av materials for distribution.	- see discussion at recommendations 24, 25, 39 and 40.

61	42.	- subject to community input, nominate an Indian person to the Saskatchewan Police Commission.	- save for a vacancy in 1983-84, an Indian person has sat on the Police Commission since 1982 (Greg Brass--1982-83; Rita Thompson--1985-88; Ron Gamble--1988-90; Stella Isnana--1990-).
61	43.	- (the RCMP) consider special selection criteria for reserve postings, and make cross-cultural training mandatory upon such postings.	- the RCMP has recently introduced changes to improve the aboriginal component of its cross-cultural training. Further, it is working on 'pre-screening' for racial intolerance. However, neither is mandatory for reserve postings as such.
61	44.	- (the Province, in conjunction with INAC) consider increasing the number of Indian Special Constables.	- the number of Indian Special Constables was frozen at 39 (plus 9 for non-status/Metis communities) in 1986. The Indian Special Constable Program was subsequently phased-out in 1990 and replaced by the Aboriginal Constable Development program. Under the latter, applicants are able to upgrade their qualifications to regular status. As well, aboriginal human justice and pre-hiring programs were initiated in conjunction with GDI and CEIC in 1989.

62	45.	- (the Province and the RCMP) consider developing problem-specific crime prevention programs and expand the use of Native Policing Units (sub-detachments staffed by Indian Special Constables).	- see status of recommendations 19 and 30 above.
62	46.	- (members of local RCMP detachments) consider increased participation in cross-cultural workshops and establishing an informal working relationship with the leadership of local bands.	- further to the measures set out at status of recommendation 43, detachments serving reserve communities meet regularly with band Chiefs to provide them with reports on crime trends on-reserve. As well, they periodically seek band input on enforcement priorities.
62	47.	- (members of local detachments and Indian communities) establish a mechanism which new constables are introduced, transfers are explained, and changes within the reserve are outlined.	- see status of recommendation 46 above.
		<u>The Indian Special Constable Program</u>	
63	48.	- (the RCMP) expand in-service training opportunities available to Indian Special Constables.	- see status of recommendation 44 above.

63	49.	- provide Indian Special Constables greater opportunities to participate in detachment administrative duties.	- see status of recommendation 44 above.
63	50.	- permit Special Constables to wear the reg serge.	- as noted at recommendation 48, the 3(b) program is being phased out and all existing Special Constables are being converted to regular member status. Further, pursuant to the Aboriginal Constable Development and GDI 'pre-hiring' programs, special recruitment and training measures have been put in place. Hence, the concerns identified in recommendations 50 through 54 have, in the main, been addressed.
63	51.	- (the RCMP) consider ways to permit Special Constables to achieve separate rank designations and undertake supervisory responsibilities.	- see status of recommendation 50.
63	52.	- (the RCMP) consider wage parity as between Special Constables and regular members.	- see status of recommendation 50.
63	53.	- (the RCMP) consider removing eyesight standards in order to ease conversion of Special Constables to regular member status.	- see status of recommendation 50.

64	54.	- (the RCMP) consider recruiting and training Indians as regular constables within the 3(b) program.	- see status of recommendation 50.
64	55.	- (the RCMP) examine if Indian Special Constables are being used for the purpose intended in circumstances where their reported time on-reserve appears disproportionately low.	- whether or to what extent Indian Specials/ Indian members have increased their activity on-reserve is difficult to discern. However, insofar as 3 Native Policing Units are now operational (and 3 more are to open soon), it seems likely that, at least in these instances, activity on-reserve has increased.
		Developing Options: Legal Advisory Services	
65	56.	- consider making legal advisory services available to assist in the further development of these recommendations.	- as the FSIN prepared no response to the studies, no legal advisory services were provided.

PREPARED BY: David Gullickson
Policy, Planning and Evaluation
Saskatchewan Justice
June 1991

APPENDIX 4

LIST OF SUBMISSIONS RECEIVED AND INDIVIDUALS/GROUPS CONSULTED, THE INDIAN JUSTICE REVIEW COMMITTEE

1. Annette Neustaedter, Director, Pine Grove Correctional Centre for Women
2. Inmate Committee, Pine Grove Correctional Centre for Women
3. George Clark, Regional Manager, Prince Albert Community Corrections
4. Dave Simpson, Director, Prince Albert Mens Provincial Correctional Centre (PACC)
5. Inmate Committee, Prince Albert Mens Provincial Correctional Centre (PACC)
6. Bernice Sayese, Prince Albert Indian and Metis Friendship Centre
7. Native Fellowship, PACC
8. Michelle Schrmil, Community Volunteer, PACC
9. Andre Letendre, Wicihitowin (Helping One Another)
10. The Literacy Program, PACC
11. The Recovery Program, PACC
12. Mark Hill
13. Jim Vickaryous, Director, Prince Albert Community Training Residence
14. Angus McLean, James Smith Band*
15. Jim O'Sullivan, Warden, Saskatchewan Penitentiary
16. Harvey Delorme, Spiritual Advisor, Sask. Pen.
17. Eugene Stevens, "F" Block Unit Manager, Sask. Pen.
18. Inmate Welfare Committee, Sask. Pen.
19. Native Awareness Group, Sask. Pen.
20. Young Offenders Division, Saskatchewan Social Services
21. Judge Linton Smith, Provincial Court of Saskatchewan*
22. The Circle Project Association Inc.
23. John Howard Society of Saskatchewan
24. The Saskatchewan Coalition Against Racism

25. The Key Band
26. The Yorkton Tribal Council
27. The Indian Justice Commission, Federation of Saskatchewan Indian Nations
28. Judge Ross Moxley, Provincial Court of Saskatchewan*
29. Judge Claude Fafard, Provincial Court of Saskatchewan*
30. Paul Laliberte
31. Gerry M. Morin
32. Robert Mercredi, North Central Regional Council, Metis Society of Saskatchewan
33. Wesley Wuttunee
34. Wayne Stonechild, President, Indian and Metis Spiritual Brotherhood, Regina Correctional Centre
35. "F" Division, Royal Canadian Mounted Police
36. Saskatchewan Police Commission
37. Prairie Region, Correctional Service of Canada
38. Prairie Region, National Parole Board
39. Saskatchewan Legal Aid Commission
40. Robert Laing, Chairperson, Saskatchewan Police Commission
41. Jacelyn Ryan, Vice-Chairperson, Saskatchewan Police Commission
42. W.G. Graham, Executive Director, Saskatchewan Police Commission
43. D.H. Egan, Officer i/c Criminal Operations, "F" Division, RCMP
44. Inspector M. Bergerman, Officer i/c, Aboriginal Policing Services Section, "F" Division, RCMP
45. Sgt. Dave LeBlanc, Aboriginal Policing Services Section, "F" Division, RCMP
46. Constable Walter J. McNabb, Aboriginal Policing Services Section, "F" Division, RCMP
47. Fred Goodman, the Officer Commanding Saskatoon Sub-division, "F" Division, RCMP
48. Greg McCullagh, Chief, Prince Albert Police Department
49. Murray Montague, A/Chief, Saskatoon City Police
50. Owen Maquire, Incoming Chief, Saskatoon City Police

51. Ernie Reimer, Chief, Regina Police Service

52. A. Wesley Dunfield, Regional Director, Prairie Region, RCMP Public Complaints Commission

53. Winston McKay, Area Representative for North-East Region I, Metis Society of Saskatchewan

54. Lisa Goulet

55. Harold Carriere, Mayor, Cumberland House

56. Ray Dussion, Cumberland House Indian Band

57. Clifford Carriere

58. Doug Nabess

59. Elizabeth McArthur

60. Pierre Dorion

61. Don Hamilton

62. Leslie Martin

63. Frank Laliberte

64. Sgt. Art Beselt, Cumberland House RCMP detachment

65. Greg Nabess

66. Frank Munroe, A/Intake Officer, Office of the Ombudsman

67. Laura Cook, A/Investigator, Office of the Ombudsman

68. Joni Sereda, Investigator, Office of the Ombudsman

69. Glenda Cooney, A/Assistant to the Ombudsman, Office of the Ombudsman

70. Vital Morin

71. Max Morin, Area Director, Northwest Region III, Metis Society of Saskatchewan

72. Ray Laliberte

73. Rick McKay

74. Bob Woods, Probation Officer, Saskatchewan Justice*

75. Linda Pederson

76. Mike Daley, Councillor, Buffalo Narrows Town Council

77. Gloria Desjarlais

78. Delilah Hansen

79. Sgt. Rick Swanson, Buffalo Narrows RCMP detachment

80. Cynthia Laliberte

81. Gordon Billette, Chief, Buffalo River Dene Nation

82. Cecile Shatilla

83. Margaret Ruda, North Battleford local, Metis Society of Saskatchewan

84. Ralph Kennedy, Area Director, Western Region 1A, Metis Society of Saskatchewan

85. Sam Giles, President, Scattered Warriors Society Incorporated, North Battleford

86. Garnet Tootoosis

87. Ernest Morin

88. Jonas Semangis, Little Pine First Nation

89. Francis LaFontaine

90. John Mitchell

91. Rod Bishop, Mayor, Green Lake

92. Rose Bishop

93. Dr. Adam Cuthand

94. Pat Bugler

95. Edwin Tootoosis, Poundmaker Band

96. Eric Tootoosis, Poundmaker Band

97. Theresa Holizki, Q.C., Chief Commissioner, Saskatchewan Human Rights Commission

98. Louis Beeds

99. Alvin Norton

100. Neil Sanderson, Native Spiritual Brotherhood, Saskatoon Provincial Correctional Centre

101. Glen Ivor Jones

102. Brian Glen Campbell

103. Aboriginal Women's Council of Saskatchewan. Included in this submission were several documents on the Manitoba Violence Family Court:

- E.J. Ursel, "Family Violence Court Evaluation Project, First Quarterly Report," December 1990;

- E.J. Ursel, "Family Violence Court Research Project Statistics," May 1991; and

- an untitled description of the court and the course of events leading to its implementation.

104. Don Tralnberg

105. Robert H.D. Head

106. Keera Carroll

107. John F. Lavallee

108. Michael Thrasher

109. Peter Guenther, Director, Saskatoon Correctional Centre

110. Barry Kayseas

111. Terrence Poorman

112. Jimmy Halvan

113. Herb Sanderson

114. Jason Tootoosis

115. Maurice Blondeau, Executive Director, Saskatoon Friendship Centre

116. Judy Fiddler

117. Pat McCormick

118. Don Morgan, Q.C., Chairperson, Saskatchewan Legal Aid Commission

119. Marjaleena Repo

120. Nora Ritchie

121. Donald Purich, Native Law Centre, College of Law, University of Saskatchewan

122. Ben Wuttenee, member, Red Pheasant Indian Band

123. Kearney F. Healy, Saskatchewan Legal Aid Commission*

124. Lawrence Cheekinew

125. Carole Reikman, Saskatoon Mediation Services

126. Terry Hinz

127. Chris Perry

128. Elizabeth Fry Society of Saskatchewan

129. Sheila P. Whelan

130. Peter Gilmer, President, Saskatchewan Coalition Against Racism (SCAR)

131. Fiona Bishop (SCAR)

132. Dale Pelletier (SCAR)

133. Tony Lund, Director, Regina Correctional Centre

134. Milton Bird

135. Lawrence Scales

136. S. Fiddler

137. Gordon Manitopyes

138. Steven Badger

139. Gilbert S. Crowe

140. Lawrence Pelletier

141. Leon Appleby

142. Robert T. McCann, Saskatchewan Legal Aid Commission*

143. Frank McCallium, Consultant to the FSIN on policing issues

144. Ivan Cote, Executive Director, Yorkton Friendship Centre

145. Jim Harding, Dianne MacDonald and Jussuf Kly, Prairie Justice Research Associates, School of Human Justice, Univerity of Regina. Included in this submission were three publications:

- Prairie Justice Research, *Strategies to reduce the over-representation of aboriginal people in Canada* (Regina: Prairie Justice Research, 1990);

- Jim Harding with Bruce Spence, *An Annotated Bibliography of Aboriginal Controlled Justice Programs in Canada* (Regina: Prairie Justice Research, June 1991); and

- Jim Harding and Beryl Forgay, *Breaking Down the Walls: A Bibliography on the Pursuit of Aboriginal Justice* (Regina: Prairie Justice Research, June 1991).

* for affiliation purposes only.

Public hearings were held in:

Cumberland House and **Yorkton**, November 1, 1991;

Buffalo Narrows and **North Battleford**, November 7, 1991; and

Saskatoon, November 8, 1991.

Due to the informal nature of the public hearings, we cannot be sure that the names of all those who presented were accurately recorded. For any errors of spelling or ommissions we apologize.

In addition, the chairperson met with:

the Justices of the Saskatchewan Court of Queen's Bench, August 29, 1991;

Professor L. Barron, Department of Native Studies, University of Saskatchewan, October 25, 1991;

Robert H.D. Head, October 8 and December 19, 1991;

the Judges of the Provincial Court, October 31, 1991;

Donald Purich, Native Law Centre, University of Saskatchewan, November 26, 1991; and

Norm Fagnou, Prairie Region, National Parole Board, and Terry Youngman and Gerry Cowie, Prairie Region, Correctional Service of Canada, November 26, 1991; and

members of the Saskatchewan Court of Appeal, December 13, 1991.

APPENDIX 5

Federation of Saskatchewan Indian Nations,
'A Strategic Plan for an Indian Justice System'

MISSION STATEMENT:

The Indian Justice Commission will design, develop and implement an Indian Justice system that will assist and support the self government of Saskatchewan's First Nations.

TERMS OF REFERENCE:

1. The IJC will review previous approaches to an Indian Justice system to evaluate trends and practices for their success and/or failure.

2. The IJC will ensure the establishment of an FSIN capability to research, develop, implement and evaluate an Indian Justice system based in the inherent right to self-government of Saskatchewan's First Nations and as affirmed in Treaty.

3. The IJC will research, establish and submit for Legislative Assembly approval, a plan for the development of an Indian Justice system to include mandate, structure, process, financial resources and training.

4. The IJC will make recommendations for monitoring the plan and will evaluate its effectiveness in meeting the Justice needs of Saskatchewan's First Nations.

AN INDIAN JUSTICE SYSTEM:

The Saskatchewan First Nations have three major priority areas for the development of their own Justice system:

I - Policing,
II - Corrections,
III - Courts.

As part of the overall strategic plan, each of these priority areas will have a specifice set of goals, programmes and objectives to be accomplished in order to achieve an Indian controlled Justice system.

I. POLICING:

GOAL A - Indian Controlled Policing on Reserves

1. Programme One - An Indian Police Services Act

Objective - Research and review present legislation, authorities and requirements necessary to establish a Police Services Act.

Objective - Draft an Act and the Regulations pursuant to the Act for review and approval by the IJC and the FSIN Legislative Assembly.

Objective - Carry out an education and communication program for First Nations about the Act and the Regulations.

2. Programme Two - An Indian Police Commission

Objective - Define the role and function of an Indian Police Commission, including powers and limits of authority.

Objective - Select and/or appoint members of the Indian Police Commission.

Objective - Train the members of the Commission to be able to carry out their role and function.

Objective - Evaluate the effectiveness of the commission in meeting its role and function.

3.Programme Three - Indian Peace Officers on Reserves

Objective - Research and develop the terms of reference for an Indian Peace Officer employed or under contract to a First Nation, Tribal Council or regional Indian government.

Objective - Develop an organization to coordinate, manage and administer an Indian Peace Officer system.

Objective - Prepare a proposal and a budget for a pilot project to operate an Indian Peace Officer programme.

Objective - The Indian Police Commission establishes operational guidelines and procedures for an Indian Peace Officer system.

Objective - Develop and implement a community education programme on the role and function of Indian Peace Officers.

Objective - Recruit, select and/or appoint candidates for Indian Peace Officer training.

Objective - The Indian Justice Commission establishes procedures for the annual review and evaluation of the Indian Peace Officer system and the Indian Police Commission.

GOAL B - Increased Indian Representation in Urban Policing

1. Programme One - a Current Status Review

Objective - Research and document the current employment of Indians as Peace Officers in the urban and municipal centres of Sask..

Objective - Document any special programmes of selection or training to improve the selection of Indian candidates for urban policing.

2. Programme Two - Pretraining of Indians for Urban Policing

Objective - Design and develop a pretraining programme to increase the number of Indians being employed with urban police services.

Objective - Provide a support and counselling service to succussful pretraining course graduates to assist them in becoming employed with urban police services.

Objective - Continuing evaluation of the pretraining programme, involving urban police services, to increase the effectiveness of the programme.

3. Programme Three - Improvement of Urban Policing

Objective - An orientation and/or education package or training course on traditional Indian culture for use with traditional police departments.

Objective - Creation of an on-going dialogue process with existing police authorities and management to influence changes in policing to recognize Indian culture, customs and practices used historically in Indian communities.

Objective - Establishment of special training processes to ensure that urban police recognize and appreciate Indian traditions and culture in contacts with Indian persons.

Objective - Evaluate the success of dialogue and new training approaches in changing and improving race relations and attitudes in urban policing practices in Saskatchewan.

II CORRECTIONS:

GOAL A - Reduction of Indian Youth in Detention

1. Programme One - Current Status Review

Objective - Research and document the number of Indian Youth in detention, including nature of offences and length of sentences.

Objective - Identify any special programmes to deal with youth offenders, especially Indian Youth, and rates of succuss in returning youth to productive community life.

2. Programme Two - Minimum Security for Indian Youth on Reserves.

Objective - Integrate Indian Youth offender programme with new Indian Justice programmes for Justices of the Peace and Courts on Reserves to ensure Indian Youth are given minimum security sentences.

Objective - Establish minimum security facilities on selected First Nations lands for Indian Youth offenders.

Objective - Select and/or appoint and train Indian persons to act as supervisors in operating minimum security Indian Youth centres.

3. Programme Three - Change Correction Centres for Indian Youth

Objective - Establish special programmes of release for Indian Youth where community supervision is possible or where technology can assist (electronic monitoring).

Objective - Establish orientation and/or education packages for use in in-service training courses on Indian culture, customs and traditions for Corrections officials, especially related to traditional Indian processes of maintaining good community behaviour.

Objective - Establish the use and employment of Indian Elders and Instructors in both cultural and up-grading training programmes run in Corrections Centres.

Objective - Establish a special Indian Youth offender centre based on a structured programme model (like military training) that will include full immersion in Indian culture, customs and spirituality with support from Elders and Pipe Carriers as part of its programmes.

GOAL B - Major Changes to Corrections Centre Procedures

1. Programme One - Freedom of Indian Religion

Objective - Establish the right to traditional spiritual practices and support services while incarcerated through the presentation of a brief on Indian spiritual practices to the Minister of Justice.

Objective - Establish an Indian Spiritual Council of Indians recognized by the First Nations to be involved in providing Indian spiritual guidance in Corrections Centres.

Objective - Evaluation of Indian spiritual guidance and support to inmates in assisting Indians, to include First Nations, other denominations and Corrections representatives.

2. Programme Two - In-service Training for Corrections Staff

Objective - Design and development of training courses on Indian spirituality, customs, traditions and practices, to include audiovisuals, and possibly "living demonstrations", as part of the courses.

Objective - Approval of the course(s) as requisite to the in-service training and/or certification of Corrections Centre Staff.

Objective - Establishment of the in-service training courses using selected Indian Instructors and/or Elders and Pipe-carriers, where required as part of the course material.

Objective - Evaluation of the required in-service training in its effect on both Corrections Centre staff and Indian inmates in incarceration.

3. Programme Three - Inmate Upgrading Courses

Objective - Establishment of the right of inmates to upgrading courses to prepare them for useful re-integration into society upon leaving incarceration.

Objective - Establishment of upgrading courses and counselling procedures to assist inmates in preparing for re-entry into society, such courses and counselling to involve as much as possible the use of Indian Instructors and/or Counsellors.

Objective - Introduction of Indian culture, traditions, history and community behaviour practices as a course or part of upgrading courses delivered in Corrections Centres.

Objective - Evaluation and revision of upgrading courses as required to assist Indian return to society.

4. Programme Four - A Transition Programme

Objective - Establishment of a transition programme to assist Indian inmates to move from full incarceration to half-way houses or to minimum security on Reserves or to employment.

Objective - Employment of Indians (including ex-offenders) and their training to carry out the programme.

Objective - Evaluation and revision of the transition programme as required to improve its impact on returning Indians to society.

III COURTS

GOAL A - Indian Justice on Reserves

1. Programme One - Development of Indian Law

Objective - Research the mechanisms for law-making in the First Nations and make recommendations for the establishment of law-making processes, records systems and provisions for public awareness and education.

Objective - Publish Indian laws in an Indian Law Gazette.

Objective - Coordinate Indian law development with the training and establishment of Indian Justices of the Peace.

2. Programme Two - Indian Justices of the Peace

Objective - Design and develop a training course for the training of Indian Justices of the Peace, to be delivered by the FSIN with the support of the Ministries of Justice.

Objective - Select and train Indian Justices of the Peace for First Nations interested in taking part in the programme, including orientation programmes for First Nations opting to implement the use of Indian Justices of the Peace in the legal processes.

Objective - Evaluation and review of the programme of Indian Justices of the Peace after after a period suitable to establish the practice of Indian control of law on Reserves.

3. Programme Three - Change of Venue of Courts

Objective - Design, develop and implement a cross-cultural training programme for Magistrates and Judges to increase their awareness of Indian traditions and customs, in order to assist them in improving their ability to impact change in Indian offenders' behaviour and recidivism.

Objective - Establish "joint" court sittings on Reserves, with existing Justices or Magistrates and Indian Justices sharing the judicial process, for a period sufficient to introduce the new practice successfully.

Objective - Establishment of "Community Justice Committees" to assist Indian Justices of the Peace in creating revised sentencing standards and procedures, with alternative sentencing acceptable to Indian traditions in community justice practices and customs.

APPENDIX 6

Public Complaints Against Municipal Police Officers

The Police Act, 1990, creates a new office of an independent Complaints Officer with responsibility to supervise the investigation of public complaints involving the conduct of members of municipal police forces in Saskatchewan.

Complaints can be made to the local police office, the local Board of Police Commissioners, the office of the investigator or to Saskatchewan Justice. Copies of the complaint are immediately distributed to the investigator, Saskatchewan Justice, the local board, the police chief and the police officer concerned. The complainant will receive interim reports within 45 days of making the complaint and every 30 days thereafter until the investigation is complete.

Complaints respecting policies or service, for example: we do not have enough patrols in our neighbourhood or the police are too tough on traffic offenders, are handled by the local board, which is obliged to give the complainant notice of the results in writing.

Complaints involving police conduct may be investigated by the independent investigator or under the direction of the police chief. However, where s/he considers it advisable to do so, the investigator can conduct or take over an existing investigation. If the chief and the investigator agree that a complaint is trivial, frivolous, vexatious, unfounded or made in bad faith, they may terminate the investigation with written notice to the complainant and police officer concerned.

The chief or investigator may, with agreement of the complainant and the police officer concerned, attempt to resolve the complaint informally. Where successful, a written record of the disposition is to be furnished to the parties concerned. This might involve mediation or an apology.

Investigations revealing an apparent breach of the law are referred to either the Saskatchewan or the federal Department of Justice for a decision as to whether or not prosecution will result in the criminal courts.

Investigations revealing an apparent breach of the police discipline regulations may result in a remedial sanction, such as counselling, training, treatment or close supervision with consent of the chief, investigator and the police officer concerned.

Otherwise, the matter must be heard by an independent Hearing Officer who may order dismissal or demotion for a major offence, or impose a fine, probation, a reprimand or any of the remedial sanctions, or where the evidence fails to support a conviction, a dismissal.

The complainant has a right to attend the hearing and be represented by counsel at the hearing, but s/he has no status to cross-examine witnesses and can be excluded if the Hearing Officer is of the opinion his/her attendance is not in the public interest. It is expected that complainants would only be excluded in rare cases and if so, only for parts of the hearing that might involve presentation of evidence from persons such as a confidential informant whose identity must be protected.

Complainants are notified in writing of the hearing results and they have the right to apply to the Saskatchewan Police Commission for permission to appeal the Hearing Officer's decision. The decision of the commission is final.

The complaint investigator is:

Mr. Ted Priel
Complaint Investigator
3rd Floor
2151 Scarth Street
Regina, Saskatchewan
S4P 3V7

Phone: 787-6519

APPENDIX 7

IF YOU HAVE A COMPLAINT AGAINST THE RCMP...

you can contact the

PUBLIC COMPLAINTS COMMISSION

an independent Authority to receive, review and inquire into complaints concerning the conduct of members of the RCMP.

If you think that you or someone else has been treated improperly or unfairly by the RCMP, you can complain to the RCMP Public Complaints Commission.

The complaint must concern the conduct of members of the RCMP in relation to the performance of their duties.

What is the Public Complaints Commission?

The Commission was created by the Parliament of Canada and is independent of the RCMP. It was created to make sure that complaints are examined impartially.

How do you complain?

You can telephone us from anywhere in Canada using our toll-free number:

1-800-267-6637.

After regular office hours, you may leave your name and telephone number on our telephone answering machine. A Complaints Officer will contact you.

If you want to write (our address is at the end of this pamphlet), please include a summary of the incident, state your complaint, and give your name, address and phone number.

We would arrange to send one of our complaints officers to meet with you in your community if necessary. You are welcome, of course, to come and discuss your complaint with a complaints officer at our regional office or our head office.

Instead of making your complaint to the Commission you may, if you prefer, make your complaint to the RCMP, or to the appropriate provincial or territorial authority responsible for complaints by the public against the police.

What happens after you make your complaint?

After our complaints officer obtains the necessary information from you, the complaint is sent to the RCMP. The RCMP may try to deal with the complaint informally if you and the RCMP member involved agree.

If the complaint cannot be dealt with informally, the RCMP then investigates it and while doing so must send you status reports on a regular basis.

When its investigation is completed, the RCMP sends a report to you with the results of the investigation, and a summary of any action taken or to be taken.

What if you are not satisfied with the RCMP report?

You should write to us. The Chairman of the Commission will then review your complaint.

If the Chairman decides that the complaint has been dealt with satisfactorily by the RCMP, he will make a report saying so and send it to you.

If the Chairman is not satisfied, he may:

- investigate the complaint further himself,
- ask the RCMP Commissioner to investigate further,
- make a report with findings and recommendations, or
- institute a hearing.

What happens at the hearing?

You (the complainant), the RCMP member involved, the RCMP and any interested party have a right to be heard.

The hearing would normally be held in public and in the community where the complaint incident arose if that is convenient to the parties.

After the hearing, the Commission prepares a report with findings and recommendations.

What happens after the Chairman's or Commission's report?

The RCMP Commissioner is required to review reports of the Chairman and the Commission and state what action has been or will be taken. If the Commissioner decides to take no action on any finding or recommendation, he is required to give an explanation to the Commission Chairman and the Solicitor General of Canada.

The Commission Chairman then prepares a final report that you will receive.

More information about the procedure is available upon request.

To reach the Public Complaints Commission:

Prairie Regional Office

Call collect:
(403) 495-4201

or write or visit us at:
10060 Jasper Avenue, suite 1909
Edmonton, Alberta
T5J 3R8

Head Office (Ottawa)

Call our toll-free number:
1-800-267-6637

or write to:
P.O. Box 3423
Postal Station "D"
Ottawa, Ontario
K1P 6L4

or visit us at:
60 Queen Street
Ottawa, Ontario

General inquiries

Edmonton 1-403-495-4201

Ottawa 1-613-952-1471

Fax numbers

Edmonton 1-403-495-4200

Ottawa 1-613-952-8045